



# TOWN OF JACKSON PLANNING & BUILDING DEPARTMENT

## TRANSMITTAL MEMO

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- Bresnan Communications

**Special Districts**

- START
- Jackson Hole Fire/EMS
- Irrigation Company

Date: April 29, 2021

Item #: P21-103

Planner: Paul Anthony

Phone: 733-0440 ext. 1303

Email: [panthony@jacksonwy.gov](mailto:panthony@jacksonwy.gov)

**Owner:**

Virginian RV Park LLC  
PO Box 7936  
Jackson, WY 83002

**Applicant:**

Ben Goldberg / Hal Hutchinson  
PO Box 13308  
Jackson, WY 83002

**REQUESTS:**

The applicant is submitting a request for a Pre-Application Conference for the property located at 90 Virginian Lane, PIDN: 22-41-16-33-2-06-002 legally known as, LOT 2, VIRGINIAN ADDITION (VIRGINIAN RV PARK)

For questions, please call Paul Anthony at 307-733-0440, x1303 or email to the address shown to the left. Thank you.

**Please respond by: May 20, 2021 (with Comments)**

**RESPONSE:** For Departments not using Trak-it, please send responses via email to:  
[alangley@jacksonwy.gov](mailto:alangley@jacksonwy.gov)



**PRE-APPLICATION CONFERENCE REQUEST (PAP)**  
Planning & Building Department

150 E Pearl Ave. ph: (307) 733-0440 fax:  
P.O. Box 1687 www.townofjackson.com  
Jackson, WY 83001

*For Office Use Only*

Fees Paid \_\_\_\_\_

Time & Date Received \_\_\_\_\_

Application # \_\_\_\_\_

***Please note: Applications received after 3 PM will be process the next business day.***

**APPLICABILITY.** This application should be used when applying for a **Pre-application Conference**. The purpose of the pre-application conference is to identify the standards and procedures of these LDRs that would apply to a potential application prior to preparation of the final proposal and to identify the submittal requirements for the application.

For additional information go to [www.townofjackson.com/204/Pre-Application](http://www.townofjackson.com/204/Pre-Application)

**PROJECT.**

Name/Description: Virginian RV Park - RPT/Cabin Village

Physical Address: 90 Virginian Lane, Jackson, WY 83001

Lot, Subdivision: Lot 2, Virginian Addition, Plat 1129

PIDN: 22-41-16-33-2-06-002

**PROPERTY OWNER.**

Name: Virginian RV Park LLC

Phone: \_\_\_\_\_

Mailing Address: PO Box 7396, Jackson, WY

ZIP: 83002

E-mail: Robert.Huggins@orion-companies.com

**APPLICANT/AGENT.**

Name, Agency: Benjamin Goldberg/Hal Hutchinson

Phone: 781-608-9183

Mailing Address: PO Box 13308, Jackson, WY

ZIP: 83002

E-mail: Ben.Goldberg@orion-companies.com; hal@hhlandstrategies.com

**DESIGNATED PRIMARY CONTACT.**

Property Owner  Applicant/Agent

**ENVIRONMENTAL PROFESSIONAL.** For EA pre-application conferences, a qualified environmental consultant is required to attend the pre-application conference. Please see Subsection 8.2.2.C, Professional Preparation, of the Land Development Regulations, for more information on this requirement. Please provide contact information for the Environmental Consultant if different from Agent.

Name, Agency: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ ZIP: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**TYPES OF PRE-APPLICATION NEEDED.** Check all that apply; see Section 8.1.2 of the LDRs for a description of review process types.

Physical Development Permit	This pre-application conference is:
<input checked="" type="checkbox"/> Use Permit	<input checked="" type="checkbox"/> Required
<input type="checkbox"/> Development Option or Subdivision Permit	<input type="checkbox"/> Optional
<input type="checkbox"/> Interpretations of the LDRs	<input type="checkbox"/> For an Environmental Analysis
<input type="checkbox"/> Amendments to the LDRs	<input type="checkbox"/> For grading
<input type="checkbox"/> Relief from the LDRs	
<input type="checkbox"/> Environmental Analysis	

**SUBMITTAL REQUIREMENTS.** Please ensure all submittal requirements are included. The Planning Department will not hold or process incomplete applications. Provide **one electronic copy** (via email or thumb drive), and **two hard copies** of the submittal packet.

Have you attached the following?

**Application Fee.** Go to [www.townofjackson.com/204/Pre-Application.com](http://www.townofjackson.com/204/Pre-Application.com) for the fees.

**Notarized Letter of Authorization.** A notarized letter of consent from the landowner is required if the applicant is not the owner, or if an agent is applying on behalf of the landowner. Please see the Letter of Authorization template at [www.townofjackson.com/DocumentCenter/View/102/Town-Fee-Schedule-PDF](http://www.townofjackson.com/DocumentCenter/View/102/Town-Fee-Schedule-PDF).

**Narrative Project Description.** Please attach a short narrative description of the project that addresses:

- Existing property conditions (buildings, uses, natural resources, etc)
- Character and magnitude of proposed physical development or use
- Intended development options or subdivision proposal (if applicable)
- Proposed amendments to the LDRs (if applicable)

**Conceptual Site Plan.** For pre-application conferences for physical development, use or development option permits, a conceptual site plan is required. For pre-application conferences for interpretations of the LDRs, amendments to the LDRs, or relief from the LDRs, a site plan may or may not be necessary. Contact the Planning Department for assistance. If required, please attach a conceptual site plan that depicts:

- Property boundaries
- Existing and proposed physical development and the location of any uses not requiring physical development
- Proposed parcel or lot lines (if applicable)
- Locations of any natural resources, access, utilities, etc that may be discussed during the pre-application conference

**Grading Information (REQUIRED ONLY FOR GRADING PRE-APPS).** Please include a site survey with topography at 2-foot contour intervals and indicate any areas with slopes greater than 25% (or 30% if in the NC Zoning District), as well as proposed finished grade. If any areas of steep slopes are man-made, please identify these areas on the site plan.

**Other Pertinent Information.** Attach any additional information that may help Staff in preparing for the pre-app or identifying possible key issues.

Under penalty of perjury, I hereby certify that I have read this application and state that, to the best of my knowledge, all information submitted in this request is true and correct. I agree to comply with all county and state laws relating to the subject matter of this application, and hereby authorize representatives of Teton County to enter upon the above-mentioned property during normal business hours, after making a reasonable effort to contact the owner/applicant prior to entering.

*Robert Huggins*

Signature of Owner or Authorized Applicant/Agent

Robert Huggins

Name Printed

April 28, 2021

Date

Manager

Title

## NARRATIVE PROJECT DESCRIPTION

### Summary

The Virginian campground Property is currently used as a legally non-conforming campground/RV Park (with 103 sites) that operates from May 1- October 15 (168 days/year). See Exhibit A (ZCV dated April 29,2020). The Applicant seeks to change from the existing non-conforming use to another materially less intensive non-conforming use pursuant to LDR 1.9.3.C.

*Specifically, the Applicant plans to place sixty-five (65) Recreational Park Trailers (RPTs) or sixty-five (65) modular/prefab cabins on the Property to be used on a year-round basis. Furthermore, Applicant intends to rent fifty-five (55) of the RPTs or modular/prefab cabins on a short-term basis. This planned use is similar to the existing use in the sense that both provide short term rentals but is functionally and operationally less intensive to the existing campground/RV Park operations where the 103 existing camping/RV sites are rented on a short-term basis. The applicant plans to rent the remaining ten (10) of the RPTs or cabins as deed restricted Workforce Rental Housing Units.*

This Proposal is made in conjunction with Applicant's ongoing redevelopment of the Virginian Lodge and RV Park property (750 W Broadway and 90 Virginian Lane) and is aimed at creating a more unified and complementary resort on the entirety of the properties.

### Change in Nonconforming Use

Pursuant to LDR 1.9.3.C a nonconforming use may be changed to another nonconforming use provided all three of the following standards are met:

1. The new use is a materially less intense nonconforming use. The determination of the level of intensity shall include, but is not limited to, consideration of traffic generated (amounts and type), impacts on access, parking demand, proposed level of activity, operational characteristics, and other potentially adverse impacts on neighboring lands.

The Applicant's proposal is materially less intense than the existing nonconforming use. Currently the nonconforming use consists of 103 camping/RV sites "that are used for 168 days/year for a total usage of 17,304 days/year." See Exhibit B (LDR Interpretation dated November 25, 2020). In accordance with LDR 1.9.3.B.1, the Applicant "is allowed [by right] to expand the nonconforming use by 20% . . . [or, in other words] another 3,460 days/year of use" for a total of 20,764 days/year Id. The Applicant's proposal contemplates 55 RPTs or cabins that will be used as short-term rentals year-round. This represents a change from an existing nonconforming use to another nonconforming use. In addition, the applicant proposed to provide 10 RPTs or cabins for long term, deed restricted Workforce Rental Housing Units. This use is a residential use and permitted use in the NH-1 zone district and therefore a conforming use. As such, the 10 Workforce Rental Housing Units are not included when considering whether the proposed change from one nonconforming use to another nonconforming use is materially less intensive. Only the 55 units proposed for short term rental use are considered under LDR 1.9.3.C.1.

From a purely numerical perspective, the proposed change of use is less intensive. When comparing overall use days between the 103 campsites and the 55 short term lodging units, the overall use days would be reduced. Assuming comparable 100% occupancy between the existing and proposed uses supports the follows:

**Proposed Use:** 55 short term rental units x 365 days = 20,075 use days.

**Current Use:** 103 campsites x 201 days of use = 20,703 use days. (This calculation includes the 20% seasonal expansion allowance)

Based on the above, the proposed use is numerically less intensive. Of course, use days are not the only factor when considering intensity of use. By their nature, RVs are an intensive use, i.e. traffic, pulling in and out, outdoor activity, running generators, idling RVs, etc. These issues are discussed below.

The numerical intensity of use argument can also be considered when using the Average Peak Occupancy methodology, a common tool with considering intensity of lodging uses. Assuming an average peak occupancy of 2 per unit, for the RPT/Cabin use the overall APO over the course of the year round use period (2/cabin/operational day or 2x55x365) is 40,150. Whereas the APO for the RV park (using 4 occupants /RV on average, which is a meaningfully conservative estimate, see footnote below taken from RV industry data) the existing use (calculated as 4/site/operational day or 4x103x201) is 82,812. By this measure the intensity of use on the site is significantly reduced by this proposal.

Numerical use data aside, the nature of the Applicant's proposal is still materially less intense than the current use for the following reasons:

- (1) The amount of traffic generated will be significantly less during the nearly 7-month period the Property can/does currently operate, while there will be only modest increases to traffic in the other 5 months of the year. Instead of 103 trucks, trailers, and RVs (along with trailered accessory vehicles that commonly accompany RV use) coming to and from the Property on a daily basis for 7 months, only 55 commuter vehicles will be traveling to and from the Property at any one time.
- (2) This reduction in peak traffic will in turn reduce the overall impact on the access points to Virginian Lane from the Property. There are currently two (2) access points to the Virginian RV park from Virginian Lane. These are needed to accommodate the large vehicles that access the RV Park and at least one of these could be eliminated in conjunction with the proposed change of use.
- (3) The proposal will also materially reduce the parking demand on the Property. Again, a difference between 103 large trucks, trailers, RVs and accessory "trailered" RV vehicles parking on the Property at any given time versus approximately 55 commuter vehicles. As discussed above, the proposed 10 deed restricted Workforce Housing units are a conforming use and the parking associated with these units should not be considered when assessing whether the proposed change of use is materially less intensive.
- (4) Under the proposal there would be a significant reduction in the overall level of activity on the Property. Instead of up to 10-12 guests occupying each of the 103 camping RV/sites<sup>1</sup> at any given time, only between 1 and 6 guests would be occupying each of the 55 RPTs or cabins at any one time.
- (5) The operational characteristics of the proposed change of use will also be materially less intensive. An RV park on the overall Virginian property is operationally distinct from the operation of the Virginian Hotel use. It requires a separate set of maintenance and support services, including assisting in parking,

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<sup>1</sup> Smaller RVs (usually between 10 and 20 feet) can typically sleep 4 to 5 adults while mid-sized RVs (between 20 and 30 feet) can sleep around 7 adults. Finally, the larger class RVs (around 30-50 feet) can sleep up to 12 adults.

and hookup to utilities, as well as consistent maintenance of exiting utility infrastructure. A change of use to 55 RPT or cabin short term rentals will have a significant operational efficiency with the existing Virginian Hotel. Housekeeping, maintenance and reservations/booking will all be consolidated under the Virginian Hotel use and will eliminate the need for accommodating the parking of large RVs and maintenance of RV utility hook up services.

(6) Lastly, the Applicant's proposal would have no adverse effect on neighboring lands. The reduction in peak season activity on the Property and replacing this intensity of use for a 7 month period with a lower number units operating over a 12 month period will benefit the neighboring lands and residents because it means a significant reduction in adverse conditions such as traffic, congestion, noise and odors. The characteristics of RV use, when much of the activity within the RV park is outdoors, with food preparation and social activities conducted primarily outside of the RVs, along with the running of generators and idling of RV vehicles is impactful to the neighborhood. Conversely, 55 RPTs or cabins will represent a reduction in outdoor noise and activity.

**2. The new use shall not create or increase nonconformities with use-based standards such as parking and affordable workforce housing.**

The Applicant's proposal does not create or increase nonconformities with use-based standards. While the proposal may change the physical structures occupying the Property (Trailers and RVs versus RPTs or cabins), the basic use of the physical structures is not changing (i.e with the exception of the workforce units, the structures will continue to be used for short-term rentals in conjunction with the operation of the Virginian Resort). As noted above, the parking needs for the proposed change in use will be significantly reduced from the Property's current operations. Furthermore, all parking will easily be contained entirely on the Property.

A numerical comparison of parking standards between the proposed use and the current use supports this position. Based on Town of Jackson parking standards the proposed 55 RPT/Cabin units generate the need for 110 parking spaces while the 103 RV spaces generates the need for 117 parking spaces.

As for workforce housing, the proposal includes a workforce housing component (i.e. 10 deed restricted units). Currently the Property does not provide any workforce housing. The proposal would therefore be superior in this aspect than the current use.

**3. The use shall obtain a CUP.**

This Application is being submitted to begin the CUP process.

**OTHER PERTINENT INFORMATION**

**Workforce Housing**

The Applicant's proposal includes 10 Workforce Rental Housing Units. These units will be essentially the same RPT or cabin products that will be rented to guests of the Virginian Resort. The inclusion of workforce rental units will benefit the overall community by adding to existing workforce housing stock and is also consistent with the character of the underlying zone (NH-1) as well the Comprehensive Plan. See LDR 2.2.9.A.1 ("The intent of the Neighborhood High Density 1 (NH-1) zone is . . . to promote workforce housing types); see also Jackson-Teton County Comprehensive Plan (A central goal of the Comp Plan is to "ensure a variety of workforce housing opportunities exist so that at least 65% of those

employed locally also live locally" and "The future vision of [Midtown includes] . . . a variety of resident types focusing on workforce housing . . . specifically including deed-restricted rental units").

While the Applicant plans to deed restrict 10 RPT or cabin units as part of this proposal, these units are linked directly to the proposed change of use. As such, any CUP application for this change of use would necessarily include the ability for the owner of the property to terminate the deed restrictions and the physical removal of the deed restricted RPTs or cabins units from the property upon termination of the short term rental use proposed in this application. The Applicant acknowledges the importance of potential workforce tenants having secure housing and as part of any CUP application, would commit to, at a minimum, giving the workforce tenants at least six (6) months prior notice prior to terminating the proposed use<sup>2</sup> and therefore the proposed workforce units.

**Exhibit A**  
**Zoning Compliance Verification**  
**April 29, 2020**



## PLANNING & BUILDING DEPARTMENT

April 29, 2020

Matt Kim-Miller for New West Companies, LLC  
PO Box 68  
Jackson, WY 73001

**RE: Item P20-057  
Zoning Compliance Verification  
Properties addressed as 750 West Broadway and 90 Virginian Lane**

Dear Mr. Kim-Miller:

After reviewing the files for the two properties referenced above, and in your letter dated March 19, 2020, the following information is provided as requested:

1. The North Parcel is zoned CR-3: Commercial Residential-3. The South Parcel is zoned NH-1: Neighborhood High Density-1.

**Staff Response:** Both statements are correct.

2. The Property is not within any of the following zoning overlays under the LDRs: the Lodging Overlay, the Scenic Resources Overlay, or the Natural Resources Overlay.

**Staff Response:** This statement is correct.

3. Immediately prior to the rezoning that caused the Property to be zoned as described in Section above, the North Parcel was zoned AC: Auto-Urban Commercial, and the South Parcel was zoned AR: Auto-Urban Residential.

**Staff Response:** Both statements are correct.

4. The 170 room hotel/motel use of the North Parcel constitutes a “conventional lodging” use as described in LDR 6.1.5.B. The 170 room hotel/motel use, and its ancillary convention uses, of the North Parcel are a legal “nonconforming use” as described in LDR 1.9.3.

**Staff Response:** Planning staff has not independently verified the number of rooms and cannot do so without a site inspection.

The existing lodging rooms are considered to be a “Conventional Lodging” use under Sec. 6.1.5.B in the LDRs. This use, including the ancillary convention uses, is considered to be a nonconforming use under Sec. 1.9.3 in the LDRs.

5. The nonconforming use of the North Parcel is independent of the nonconforming use on the South Parcel, such that one or the other nonconforming use could be discontinued without affecting the other:

**Staff Response:** Yes, the nonconforming uses of the motel (north lot) and the campground (south lot) are regulated as independent nonconforming uses because they are on independent lots.

6. The 103 site campground and RV park use of the South Parcel constitutes a “lodging” use as described in LDR 6.1.5.A.1, but it does not constitute a “conventional lodging” use as described in LDR 6.1.5.B. The 103 site campground and RV park use of the South Parcel is a legal “nonconforming use” as described in LDR 1.9.3.

**Staff Response:** Planning staff has not independently verified the number of campsites and cannot do so without a site inspection.

The LDRs do not have a definition for a “campground” use because it is not a use allowed anywhere in the Town. The LDRs do have a definition for a “Camping Unit” in Sec. 9.5.C. but this definition is not tied to the uses permitted in Div. 6.1 Allowed Uses and so is not relevant to the question at issue. To answer the question of how a “campground” use should be categorized in the current LDRs, staff referred to a recent but previous version of the LDRs (prior to January, 2015) that did include “Campgrounds” as a defined use. The LDRs at that time defined “Campgrounds” in Sec. 2220.C.3.b as an “Amusement/Recreation” use because it provided “overnight or short-term sites for recreational vehicles, trailers, campers, or tents.” It was not considered a “Commercial” use where all lodging-related uses were categorized. Thus, applying the same categorization to the current LDRs, “campgrounds” would be most similar to the “Developed Recreation” use in Sec. 6.1.7.D. In summary, the existing campground on the south lot is considered a nonconforming use and subject to the terms of Sec. 1.9.3, but not to Sec. 6.1.5.B.

7. We ask the Town to confirm the maximum floor area on the Property.

- a. The maximum floor area on the North Parcel is 135,733 (7.79 acres / 43,560 sq ft in an acre x 0.40 FAR for CR-3 zoning). This maximum floor area could be increased by using the deed restricted housing exemption and/or the workforce housing area bonus

subject to the provisions of LDR 7.8.3 and 7.8.4.

**Staff Response:** The maximum allowed base floor area on the north lot is 135,732 sf using the .40 FAR. This maximum may be increased to allow for residential floor area only per the requirements in Sec. 7.8.3 and Sec. 7.8.4.

- b. The maximum floor area on the South Parcel is 89,734 (5.15 acres / 43,560 sq ft in an acre x 0.40 FAR for NH-1 zoning). This maximum floor area could be increased by using the deed restricted housing exemption and/or the workforce housing area bonus subject to the provisions of LDR 7.8.3 and 7.8.4

**Staff Response:** The maximum allowed base floor area on the south lot is 89,733 sf using the .40 FAR. This maximum may be increased to allow for residential floor area/units only per the requirements in Sec. 7.8.3 and Sec. 7.8.4.

8. Neither the CR-3 zone nor the NH-1 zone impose caps on “site development” (as defined in the LDRs) except by virtue of setbacks and the minimum “landscape surface ratio” (as defined in the LDRs), streetscape standards, and related restrictions.

**Staff Response:** This statement is correct.

9. LDR 1.9.3.B.1 provides “A nonconforming use may only be expanded a cumulative total of 20% in the floor area and site area occupied and/or the daily and annual duration of operation. . . .” LDR 6.1.4.A.2.d provides: “Existing Lodging Uses Outside the LO. Notwithstanding the floor area limitations in Div. 1.9. and the zone in which it exists, an existing lodging use outside the LO shall be permitted to expand a maximum of 10% in gross floor area for the purpose of adding amenities or support facilities. The additions shall not add lodging rooms. This 10% limitation applies cumulatively to all additions since November 9, 1994.”
  - a. For the purposes of LDR 6.1.4.A.2.d, the entire 95,169 sq ft of buildings on the North Parcel constitute the existing lodging use gross floor area.

**Staff Response:** Staff does not know the exact habitable floor areas of each component use on the north parcel. While assessor's records can be helpful they do not provide floor area calculations that are necessarily consistent with floor area as defined in the LDRs. Thus, cannot confirm that the 95,169 sf cited by the applicant is accurate.

However, once the correct applicable floor area is determined, the 10% expansion allowed in Sec. 6.1.4.A.2.d applies only to areas dedicated primarily to serving the lodging use and motel guests. Thus, the expansion would apply to habitable floor area dedicated to the motel rooms, conference center, gym/recreation room (if any), motel lobby, and internal hallways serving any of these areas. Unless the landowner can provide evidence to the contrary (i.e., 50% or more of sales or use derived from motel guests), it would not appear to apply to the liquor store, Virginal Saloon, Virginian Grill restaurant, or any of the uses in the detached building behind the restaurant.

- b. Pursuant to LDR 1.9.3.B.1 and 6.1.4.A.2.d, the 95,169 sq ft of existing lodging uses could be demolished and rebuilt with an expanded 104,175 sq ft of lodging uses [(95,169 – the 5,112 sq ft of restaurant built in 2001 x 110%) adding back in the 5,112 sq ft of restaurant].

**Staff Response:** Per the answer to Question #9a, the 10% expansion applies only to the total floor area that meets the requirement of being dedicated primarily to serving the motel guests. Because staff does not know the exact floor area that currently primarily serves hotel guests, we cannot estimate the amount of floor area from which the additional the 10% allowance would be measured.

Staff does fully understand the purpose of the restaurant example. Assuming the restaurant does not qualify for the 10% expansion, it does not matter that it was built after 1994. Thus, the restaurant can be demolished and rebuilt to whatever floor area is available within the approximate maximum of 135,732 sf on the northern lot. Restaurants are an allowed use in the CR-3 zone so they are not subject to either Sec. LDR 1.9.3.B.1 and 6.1.4.A.2.d. Please note that any floor area added through the 10% nonconforming lodging expansion allowance counts against the total FAR maximum of 135,732 sf.

- c. In addition to any demolished and reconstructed 104,175 sq ft of lodging uses, additional square footage of the permitted use types listed in LDR 2.2.13.C.1 could additionally be constructed up to the maximum floor area permitted on the North Parcel as described above (assuming any necessary conditional use permit were obtained, and assuming all other physical development restrictions such as setbacks, landscape surface ratio, streetscape standards, etc. were complied with), while maintaining the existing nonconforming lodging uses.

**Staff Response:** For reasons explained in Questions 9a and 9b, staff cannot confirm the 104,175 sf of lodging uses. However, in response to the rest of

the question, the landowner will be allowed to increase the total floor area of all uses permitted in the Use Table in Sec. 2.2.13.C.1 to the approximate total of 135,732 sf per the .40 FAR maximum. Please note that any floor area added through the 10% nonconforming expansion lodging allowance counts against the total FAR maximum of 135,732 sf.

- d. An expansion of the North Parcel lodging use pursuant to LDR 1.9.3.B.1 and 6.1.4.A.2.d can result in increased room sizes, but cannot increase the number of rooms or the number of “pillows” available at the North Parcel.

**Staff Response:** The above statement is correct.

- e. An expansion of the North Parcel lodging use pursuant to LDR 1.9.3.B.1 and 6.1.4.A.2.d does not require an additional conditional use permit or special use permit (c.f., LDR 1.9.3.B.4).

**Staff Response:** The LDRs do not specify a review process for expanding a nonconforming lodging establishment in either Sec. 1.9.3.B.1 or 6.1.4.A.2.d. However, the LDRs do require approval of a use permit (Basic Use Permit, Conditional Use Permit, Special Use Permit) for all physical expansions of floor area. In this light, the Planning Director has determined that an expansion of the lodging use per LDR Sections 1.9.3.B.1 and 6.1.4.A.2.d. will require a Conditional Use Permit because the use in question (i.e., Conventional Lodging) is not an allowed use at all in the CR-3 zone. This means there would be an elevated public interest in ensuring that any expansion is properly reviewed and any adverse impacts are mitigated as necessary. By analogy, Sec. 1.9.3.C.3 requires that a change from one nonconforming use to another “materially less intense” nonconforming use requires a CUP. Thus, to require a CUP to review an increase in the intensity of a nonconforming use, as allowed by the 10% expansion, is reasonable and consistent.

- f. If the North Parcel’s lodging use is changed into a “materially less intense nonconforming use” pursuant to LDR 1.9.3.C and a conditional use permit is obtained, does that new use become a conforming use by virtue of the conditional use permit?

**Staff Response:** No, any new nonconforming use that obtains a CUP under Sec. 1.9.3.C will remain nonconforming so long as it is not an allowed use in the CR-3 Use Table in Sec. 2.2.13.C.1.

- g. The existing 1,107 sq ft of buildings on the South Parcel could be demolished and reconstructed with 1,218 sq ft of buildings serving the campground and RV park uses (1,107 x 110%).

**Staff Response:** Based on the answer to Question 6, where we state the existing “campground” use is not considered a “lodging” use by the Town but closer to a “Developed Recreation” use under the LDRs, the existing building (the size of which has not been verified by staff) on the south lot may

expanded by 20% per Sec. 1.9.3.B.

10. The minimum lot size in the CR-3 zone is 7,500 sq ft, so the North Parcel could be divided into 45 distinct lots per LDR 2.2.13.D.1. Townhouse/condominium subdivisions are also permitted. Notwithstanding the foregoing, while any lodging use is conducted on the North Parcel, the North Parcel cannot be subdivided unless the existing nonconforming lodging use of the North Parcel is discontinued, per LDR 1.9.3.E.

**Staff Response:** The above statement is correct, assuming that there are not site constraints on the site (slopes, soils, etc.) that could otherwise limit development potential.

11. The minimum lot size in the NH-1 zone is 7,500 sq ft, so the South Parcel could be divided into 30 distinct lots per LDR 2.2.9.D.1. Townhouse/condominium subdivisions are also permitted. Notwithstanding the foregoing, while any campground / RV park use is conducted on the South Parcel, the South Parcel cannot be subdivided unless the existing nonconforming campground / RV park use of the North Parcel is discontinued, per LDR 1.9.3.E.

**Staff Response:** The 5.15-acre south lot could be divided into as many as 29 lots (29.91 lots), assuming that there are not site constraints on the site (slopes, soils, etc.) that could otherwise limit development potential.

12. There is no maximum building size for an office use, a mini-storage warehouse use, or a heavy retail/service use on the North Parcel, provided, however, that setbacks, the permitted floor area ratio, height limitations, parking, streetscape standards, the landscape surface ratio, and similar indirect constraints do act to constrain the aggregate building size that may be constructed.

**Staff Response:** The above statement is correct.

13. There is no maximum building size for a lodging use on the North Parcel, provided, however, that setbacks, the permitted floor area ratio, height limitations, parking, streetscape standards the landscape surface ratio, and similar indirect constraints do act to constrain the aggregate building size that may be constructed:

**Staff Response:** The above statement is correct.

14. LDR 2.2.9.B.3 provides that the maximum individual building in the NH-1 zone is 10,000 sq ft. Please confirm that this was not the intended limitation, and that, while staff does not have control over what standard the Town Council may adopt, (i) staff's intention was to say that no individual residential unit may exceed 10,000, but that there is not limitation on any given building's building size (provided, however, that setbacks, the permitted floor area ratio, height limitations, parking, the landscape surface ratio, and similar indirect constraints do act to constrain the aggregate building size that may be constructed), and (ii) staff's intention is to introduce a clarifying amendment for Town Council's review.

**Staff Response:** The 10,000 sf maximum individual building size is an error that was adopted in the July, 2018, LDR update. The intent was to apply this limit to the size of an individual dwelling or unit size, not to an individual building. Planning staff plans to fix this error in the next round of LDR "clean-up" amendments, likely in the next year.

15. Pursuant to LDR 1.9.2.D.4.6, if the existing lodging use on the North Parcel were demolished, the owner would have 18 months post-demolition to submit a sufficient building permit application, and then would have the right to complete the construction as provided under the Town's building permit provisions addressing the ongoing validity of a building permit:

**Staff Response:** The lodging use is a nonconforming use thus subject to the requirements of LDR Sec. 1.9.3.D.1. This section specifies that a nonconforming use that is "operationally discontinued for a period of more than one year... shall not be reestablished or resumed."

16. Are accessory residential units permitted in the CR-3 zone? Are accessory residential units permitted in the NH-1 zone?

**Staff Response:** Per the Use Table for the CR-3 zone, accessory residential units are allowed.

While accessory residential units are not allowed in the NH-1 zone, "apartments" are allowed because Single-family detached homes are not allowed in the NH-1 and ARUs are usually accessory to this primary residential type (i.e., ARUs are not typically accessory to a condominium, an apartment, or a townhome).

17. Assuming the square footage and use descriptions set forth below are correct (we acknowledge that these are slightly different than the County GIS statistics used above), please confirm the number of affordable workforce housing units that would be deemed to exist by virtue of the pre- and post- December, 18, 1995 improvements that exist on the North Parcel and the South Parcel, as contemplated under Division 6.3 of the LDRs.

**Staff Response:** Staff does not see the "square footage and use descriptions set forth below" referenced in the question, and thus cannot respond to this question.

18. The maximum height for a re-constructed lodging use on the North Parcel is 46' with a roof pitch of greater than or equal to 5/12, and is 42' with a roof pitch less than 5/12.

**Staff Response:** This statement is correct. However, note that Sec. 2.2.13.E.4 allows structures to be 48' in height and four stories provided they meet the criteria specified in this section, including that an area equivalent to amount of floor area in a fourth story must be deed restricted for workforce housing.

19. The RV Park currently operates for a 168 day period from approximately May 1 through October 15 of a given season. Assuming that as of the date of vesting of the nonconforming use, the same use schedule applied, under LDR 1.9.3.B.1, could the RV Park expand its operating season to add an additional 33 days of operation (168 x 20% = 33.6 days).

**Staff Response:** The above statement is correct.

20. Each of the North Parcel and the South Parcel is a legally subdivided parcel and may be conveyed without needing to submit for or obtain any exempt land division approval or subdivision plat from the Town of Jackson.

**Staff Response:** The above statement is correct.

**21.** The Town of Jackson does not have any open enforcement actions or any open investigations in relation to the Property and its compliance with the LDRs.

**Staff Response:** The above statement is correct.

**22.** The Town of Jackson does not have any open enforcement actions or any open investigations in relation to the retail liquor license that is held by Flat Creek Development Company and used at the Property.

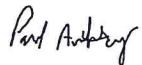
**Staff Response:** Liquor licenses are enforced by the Town Clerk, not the Planning Director. Please refer all questions regarding liquor license compliance to Sandy Birdyshaw, Town Clerk.

**23.** The Property does not have any unperformed construction, demolition or landscaping obligations as relate to the Town of Jackson.

**Staff Response:** The above statement is correct.

If you should have any further questions, please do not hesitate to contact me.

Sincerely,



Paul Anthony,  
Director of Planning

**Exhibit B**

**LDR Interpretation**

**November 25, 2020**

**From:** [Benjamin Goldberg](#)  
**To:** [Benjamin Goldberg](#)  
**Subject:** FW: RV Lot Expansion of Use  
**Date:** Tuesday, March 16, 2021 6:18:33 PM

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**From:** Paul Anthony <[panthony@jacksonwy.gov](mailto:panthony@jacksonwy.gov)>  
**Subject: RE: Hoback RV Park\_Virginian RV Park**  
**Date:** November 25, 2020 at 11:58:49 AM MST  
**To:** Robert Huggins <[robert.huggins@orion-companies.com](mailto:robert.huggins@orion-companies.com)>, Tyler Sinclair <[tsinclair@jacksonwy.gov](mailto:tsinclair@jacksonwy.gov)>  
**Cc:** Lea Colasuonno <[colasuonno@jacksonwy.gov](mailto:colasuonno@jacksonwy.gov)>

Robert,

In response to your email below, this email serves as an interpretation of the Town Land Development Regulations (LDRs) related to the temporary use of the Virginian campground for use this winter to relocate tenants of the Hoback RV Park:

*The Virginian campground can be used for additional RV use over the 2020/2021 winter provided the total number of camping days (i.e., # of RVs x length of stay) does not exceed 3,460 individual days. This interpretation is based on the fact that the current campground is a nonconforming use in the Neighborhood High-density – 1 District (NH-1) so the owner is allowed to expand the nonconforming use by 20% per Sec. 1.9.3.B.1. Given the current campground has 103 sites (based on information from the landowner) that are used for 168 summer days/year for a total usage of 17,304 days/year, then a 20% expansion would allow another 3,460 days/year of use. As an example, this would allow approximately 23 RVs to stay there for 150 days (5 months).*

*Furthermore, in order to ensure that the RV use is considered a temporary “camping” use and not a “residential” use, the maximum duration of any RV stay is 180 days. The RV units would also need to be hooked into the campground facilities to clearly establish that this is a “camping” use and not a “residential” use.*

I believe this interpretation answers your questions below. Specifically, this interpretation would allow the temporary use of the Virginian campground to relocate approximately 14 RVs for 143 days (Dec. 8 - April 20) because this would constitute a total of 2,002 days of use which is well below the allowed maximum of 3,460 days/year. The fact that your requested use would carry over to two calendar years is not a problem because the requested level of use is below the annual limit for either year.

You do not need to apply for any additional permits from the Planning or Building Department to hook up the RVs at the Virginian site. You may want to check with the Town Engineer, however, to ensure that there are no water/sewer issues with the winter use of the facilities. Also, if possible, we request that the RVs be located toward the interior of the site to minimize impacts along the street frontages.

Please let me know if you have any additional questions.

Thanks, Paul.

**Paul Anthony  
Planning Director  
Town of Jackson Planning and Building Department  
(307) 733-0440**

*Thank you for your email. The Town's Planning and Building Department office has reopened but we still encourage the public to contact us via email or phone to protect against the spread of the Coronavirus. We are continuing to have all Planning and Building applications accepted and processed digitally. Please see the Planning and Building Department's website for more details.*

