



TOWN OF JACKSON PLANNING & BUILDING DEPARTMENT

TRANSMITTAL MEMO

Town of Jackson

- Public Works/Engineering
- Building
- Title Company
- Town Attorney
- Police

Joint Town/County

- Parks and Recreation
- Pathways
- Housing Department

Teton County

- Planning Division

- Engineer
- Surveyor- *Nelson*
- Assessor
- Clerk and Recorder
- Road and Levee

State of Wyoming

- Teton Conservation
- WYDOT
- TC School District #1
- Game and Fish
- DEQ

Federal Agencies

- Army Corp of Engineers

Utility Providers

- Qwest
- Lower Valley Energy
- Bresnan Communications

Special Districts

- START
- Jackson Hole Fire/EMS
- Irrigation Company

<p>Date: March 20, 2020</p> <hr/> <p>Item #: P20-057</p> <hr/> <p>Planner: Paul Anthony</p> <p>Phone: 733-0440 ext. 1303</p> <p>Email: panthony@jacksonwy.gov</p> <hr/> <p>Owner: Flat Creek Development Co. PO Box 1052 Jackson, WY 83001</p> <p>Applicant: Holland and Hart -Matt Kim-Miller New West (new owner) Greg Prugh PO Box 68 Wilson, WY 83001</p>	<p style="text-align: center;">REQUESTS:</p> <p>The applicant is submitting a request for a Zoning Compliance Verification for the property located at 750 W. Broadway & 90 Virginian, legally known as, LOT 1, VIRGINIAN ADDITION and LOT 2, VIRGINIAN ADDITION.</p> <p>For questions, please call Paul Anthony at 307-733-0440, x1303 or email to the address shown to the left. Thank you.</p>
<p>Please respond by: April 3, 2020 (Sufficiency) April 10, 2020 (with Comments)</p>	

RESPONSE: For Departments not using Trak-it, please send responses via email to: tstolte@jacksonwy.gov

LETTER OF AUTHORIZATION

Flat Creek Development Company, "Owner" whose address is: _____

750 W Broadway Ave & 90 Virginian Ln

(NAME OF ALL INDIVIDUALS OR ENTITY OWNING THE PROPERTY)

Flat Creek Development Company, as the owner of property more specifically legally described as: Lot 1 & 2 Virginian Addition Plat 1129

(If too lengthy, attach description)

HEREBY AUTHORIZES Greg Prugh as agent to represent and act for Owner in making application for and receiving and accepting on Owners behalf, any permits or other action by the Town of Jackson, or the Town of Jackson Planning, Building, Engineering and/or Environmental Health Departments relating to the modification, development, planning or replatting, improvement, use or occupancy of land in the Town of Jackson. Owner agrees that Owner is or shall be deemed conclusively to be fully aware of and to have authorized and/or made any and all representations or promises contained in said application or any Owner information in support thereof, and shall be deemed to be aware of and to have authorized any subsequent revisions, corrections or modifications to such materials. Owner acknowledges and agrees that Owner shall be bound and shall abide by the written terms or conditions of issuance of any such named representative, whether actually delivered to Owner or not. Owner agrees that no modification, development, platting or replatting, improvement, occupancy or use of any structure or land involved in the application shall take place until approved by the appropriate official of the Town of Jackson, in accordance with applicable codes and regulations. Owner agrees to pay any fines and be liable for any other penalties arising out of the failure to comply with the terms of any permit or arising out of any violation of the applicable laws, codes or regulations applicable to the action sought to be permitted by the application authorized herein.

Under penalty of perjury, the undersigned swears that the foregoing is true and, if signing on behalf of a corporation, partnership, limited liability company or other entity, the undersigned swears that this authorization is given with the appropriate approval of such entity, if required.

OWNER: Glenn P. Napierskie II

(SIGNATURE) (SIGNATURE OF CO-OWNER)

Title: Glenn P. Napierskie II, President of Flat Creek Development Company

(if signed by officer, partner or member of corporation, LLC (secretary or corporate owner) partnership or other non-individual Owner)

STATE OF _____)

COUNTY OF _____)SS.

The foregoing instrument was acknowledged before me by _____ this _____ day of _____, 20____.

WITNESS my hand and official seal _____ (Seal)

(Notary Public)

My commission expires: _____

SEE ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego }

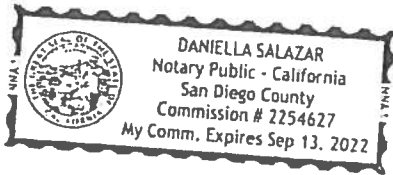
On January 22, 2020 before me, Daniella Salazar
Date Here Insert Name and Title of the Officer

personally appeared Glenn P. Napierstke II
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Daniella Salazar
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____

Partner – Limited General Partner – Limited General

Individual Attorney in Fact Individual Attorney in Fact

Trustee Guardian of Conservator Trustee Guardian of Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____





March 19, 2020

I request that the Town of Jackson issue a zoning compliance verification (“ZCV”) pursuant to Section 8.6.2 of the Town of Jackson Land Development Regulations (“LDRs”) to confirm certain attributes of the physical development, use and development options of the property at 750 West Broadway and 90 Virginian Lane, Jackson, Wyoming (the “Property”) is in compliance with the LDRs in relation to the specific questions below.

The two parcels that make up the Property are depicted on Exhibit A and are the following

- The approximately 7.79 acre parcel at 750 W Broadway that is Lot 1 on Plat No. 1129, and is PIDN 22-41-16-33-2-06-001 (the “North Parcel”).
- The approximately 5.15 acre parcel at 90 Virginian Lane that is Lot 2 on Plat No. 1129, and is PIDN 22-41-16-33-2-06-002 (the “South Parcel”).

This letter is being submitted by Matt Kim-Miller as attorney for New West Companies, LLC (d/b/a the Orion Companies) who is the contract purchaser of the Property.

Exhibit B-1 shows the owner’s internal records as to allocated building uses. It shows 95,169 sq ft of habitable floor area on the North Parcel, including 5,112 sq ft of restaurant use. Exhibit B-2 shows the County GIS square footage and year that a building was built for the Property. It shows a total of 94,972 sq ft of habitable floor area on the North Parcel, including 5,121 sq ft of restaurant use. For the below questions, we have used the owner’s calculations of square footage, and have assumed the accuracy of those calculations. We recognize that the Town or the owner could go through the process of verifying the square footage that currently actually exists, in which case, an accurately re-measured square footage would be binding.

As noted on the County GIS, and as is visible from historic pictures of the Property: (a) the North Parcel buildings (other than the restaurant) were all constructed prior to 1994 (and many buildings before 1978), (b) the restaurant on the North Parcel is noted on the County GIS as having been constructed in 2001, (c) the campground/RV park has been operational since the late 1980s.

We ask that the following be confirmed or answered:

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



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.

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.

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.

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.

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.
- 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.

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.

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.



- 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].
 - 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.
 - 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.
 - 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).
 - 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?
 - 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%).
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.
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.



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.

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.

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.

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.

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

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.

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.

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 ($168 \times 20\% = 33.6$ days).



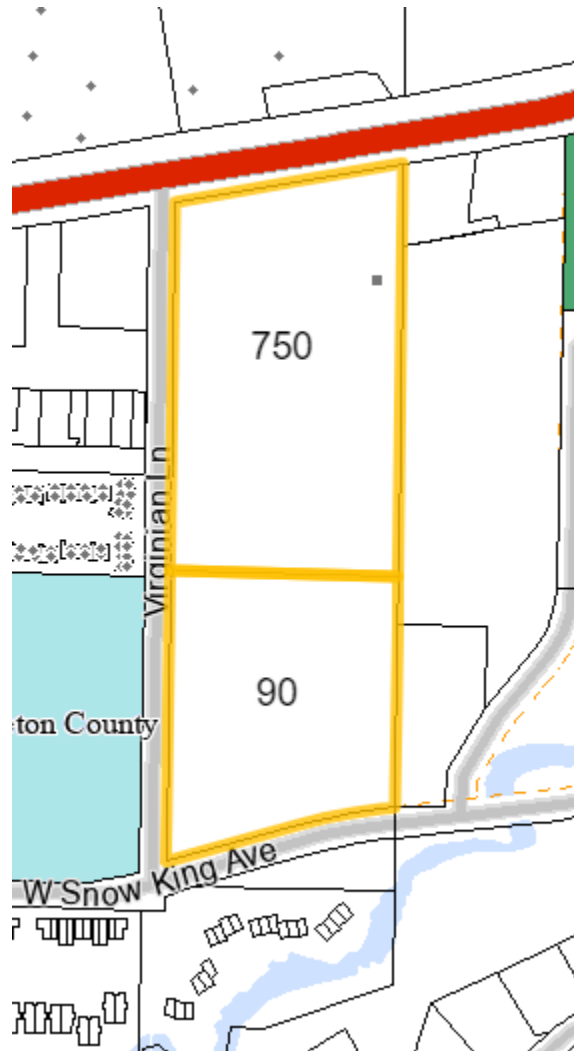
20. Each of the North Parcel and the South Parcel is a legally subdivided parcel and may be conveyed without needing to submit for or obtain any exempt land division approval or subdivision plat from the Town of Jackson.

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.

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.

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

Exhibit A



[Return to parcel page](#)

- Parcel: 22-41-16-33-2-06-002
- [Clerks records](#)
- [Parent Parcel](#)
- [Account: R0005558 Property Detail](#)
- [Tax Information for OJ-006255](#)
- [Map Number: 01129](#)
- Lot: 2
- Owner: FLAT CREEK DEVELOPMENT CO.
- MailAddr: PO BOX 1052
- MailAddr: JACKSON, WY 83001-1052
- StAddr: 90 VIRGINIAN LANE
- Location: LOT 2, VIRGINIAN ADDITION (VIRGINIAN RV PARK)
- TaxClass: Commercial
- Acreage: 5.15

- Parcel: 22-41-16-33-2-06-001
- [Clerks records](#)
- [Parent Parcel](#)
- [Account: R0005557 Property Detail](#)
- [Tax Information for OJ-006254](#)
- [Map Number: 01129](#)
- Lot: 1
- Owner: FLAT CREEK DEVELOPMENT CO.
- MailAddr: PO BOX 1052
- MailAddr: JACKSON, WY 83001-1052
- StAddr: 750 W BROADWAY AVENUE
- Location: LOT 1, VIRGINIAN ADDITION (VIRGINIAN LODGE)
- TaxClass: Commercial
- Acreage: 7.79

Lat / Lon N: 43.47329°, W: 110.77849°
 NAD83 UTM Zone 12 X: 517915,
 Y: 4813399
 Wyoming West NAD83 USft
 N: 1412289, E: 2440141



Exhibit B-1

OWNER'S EXISTING CALCULATIONS OF SQUARE FOOTAGE ON THE NORTH PARCEL

See attached



Main Building	Gross Building Area
Lobby/Office/Admin	3,873
Rooms	4,360
Conference	4,888
Liquor Store	1,915
Liquor Office/Banq. Prep	765
Bar/Saloon	2,696
Misc. Cooler	170
Circulation	2,745
Building 1	
Rooms	4,568
Building 2	
Rooms	3,912
Building 3	
Rooms	5,329
Laundry	1,262
Building 4	
Rooms	3,920
Building 5	
Storage	200
Rooms	4,360
Building 6	
Storage	600
Rooms	3,923
Building 7	
Rooms	3,883
Building 8	
Laundry	511
Hair Salon	1,022
Circulation	3,393
Rooms	10,179
Building 9 "Queen"	
Rooms	16,664
Circulation	3,793
Maint. Shed	



Rooms	1,122
Restaurant- Carriage	
Carriage	1,736
Restaurant	3,376
RV Park Buildings	
Check in Office	205
Bathroom/Shower	902
Total Gross Building Area	96,272
Lot 1 (North Parcel) Gross Building Area	95,169
Lot 2 (South Parcel) Gross Building Area	1,107



Exhibit B-2

COUNTY GIS FLOOR AREA

The following information as to existing buildings is from the Teton County GIS website:

750 W. Broadway (aka the "North Parcel")		
Existing Buildings	County SqFt per Assessor	Year Built Per County GIS
Bar/Tavern	12,972	1971
Motel	20,184	1974
Restaurant	5,121	2001
Motel	40,247	1965
Storage garage	1,104	1966
Motel	15,344	1990
Total	94,972	

90 Virginian Lane (aka the "South Parcel")		
Existing Buildings	County SqFt per Assessor	Year Built Per County GIS
Shower building	918	1988
Snack bar	192	1984
Total	1,110	

14316874_v2



PLANNING PERMIT APPLICATION
Planning & Building Department

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

For Office Use Only

Fees Paid _____ Date & Time Received _____
Application #s _____

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

PROJECT.

Name/Description: Virginian Lodge and RV Park
Physical Address: 750 West Broadway; 90 Virginian Lane
Lot, Subdivision: _____ PIDN: 22-41-16-33-2-06-001 & 22-41-16-33-2-06-002

PROPERTY OWNER.

Name: Flat Creek Development Co. Phone: _____
Mailing Address: PO Box 1052, Jackson, WY ZIP: 83001
E-mail: _____

APPLICANT/AGENT.

Greg Prugh

Name: New West Companies, LLC/Matt Kim-Miller Phone: (307) 734-4504
Mailing Address: Holland & Hart LLP, PO Box 68, Jackson, WY ZIP: 83001
E-mail: mwkimmler@hollandhart.com

DESIGNATED PRIMARY CONTACT.

_____ Property Owner X _____ Applicant/Agent

TYPE OF APPLICATION. Please check all that apply; review the type of application at www.townofjackson/200/Planning

- Use Permit: Basic Use, Conditional Use, Special Use
Physical Development: Sketch Plan, Development Plan, Design Review
Interpretations: Formal Interpretation, Zoning Compliance Verification (checked)
Relief from the LDRs: Administrative Adjustment, Variance, Beneficial Use Determination, Appeal of an Admin. Decision
Subdivision/Development Option: Subdivision Plat, Boundary Adjustment (replat), Boundary Adjustment (no plat), Development Option Plan
Amendments to the LDRs: LDR Text Amendment, Map Amendment
Miscellaneous: Other: _____, Environmental Analysis

PRE-SUBMITTAL STEPS. To see if pre-submittal steps apply to you, go to www.townofjackson.com/200/Planning and select the relevant application type for requirements. Please submit all required pre-submittal steps with application.

Pre-application Conference #: _____ Environmental Analysis #: _____
Original Permit #: _____ Date of Neighborhood Meeting: _____

SUBMITTAL REQUIREMENTS. Please ensure all submittal requirements are included. The Planning Department will not hold or process incomplete applications. Partial or incomplete applications will be returned to the applicant. Go to www.townofjackson.com/200/Planning and select the relevant application type for submittal requirements.

Have you attached the following?

Application Fee. Fees are cumulative. Go to www.townofjackson.com/200/Planning and select the relevant application type 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.

Response to Submittal Requirements. The submittal requirements can be found on the TOJ website for the specific application. If a pre-application conference is required, the submittal requirements will be provided to applicant at the conference. The submittal requirements are at www.townofjackson.com/200/Planning under the relevant application type.

Note: Information provided by the applicant or other review agencies during the planning process may identify other requirements that were not evident at the time of application submittal or a Pre-Application Conference, if held. Staff may request additional materials during review as needed to determine compliance with the LDRs.

Under penalty of perjury, I hereby certify that I have read this application and associated checklists 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.

/s/ Matthew W. Kim-Miller

Signature of Property Owner or Authorized Applicant/Agent

Matthew W. Kim-Miller

Name Printed

DocuSigned by:

Matt Kim-Miller

87680052E9084E6...

Greg Prugh

DocuSigned by:

Greg Prugh

6B1FEB3496D5473...

3/19/2020

Date

Attorney

Title