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WYOMING LEGAL ASSISTANTS

CARLY J. SCHRINAR

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MONTANA LEGAL ASSISTANT

MARCIE HAINES

July 3, 2025

City of Lander Board of Adjustment
City Council Chambers
240 Lincoln Street
Lander, WY 82520

Re: *Wittek v. City of Lander Board of Adjustment*

Dear Board:

Enclosed please find a copy of the *Verified Petition for Review*

Thank you,



Sam Hollingshead
Legal Assistant

Enclosures

FILED

**IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT
FREMONT COUNTY, WYOMING**

AUSTIN WITTEK,)	
	:	
Petitioner,)	
	:	
vs.)	Docket No.
	:	
CITY OF LANDER BOARD OF	:	
ADJUSTMENT,)	
	:	
Respondent)	

VERIFIED PETITION FOR REVIEW

COMES NOW, Petitioner Austin Wittek by and through his undersigned attorney, Aaron J. Vincent of Vincent Davey Law Firm, and pursuant to W.S. § 15-1-609, hereby, petitions this Court for judicial review of the *Decision and Order* of the City of Lander Board of Adjustment, which was issued on June 5, 2025. As grounds for the Petition, Petitioner states as follows:

1. Petitioner, Austin Wittek, is and at all relevant times a resident of Lander, Fremont County, Wyoming. Pursuant to W.S. § 16-3-114, Petitioner states he has exhausted all administrative remedies prior to filing this petition. Respondent's decision, attached as Exhibit 1, is a final decision by the agency. Pursuant to W.S. § 15-1-609, Petitioner is entitled to judicial review.

2. The Respondent, City of Lander Board of Adjustment, hereinafter “Board” or “Respondent,” is an agency within the City of Lander, Fremont County, Wyoming. The board members of the Board of Adjustment are Kara Colovich, Rob Newsom, Chris Savan, Joe Henry and Chairman Zach Mahlum.
3. Venue is proper in this Court because the underlying decision for which review is sought involves a Petitioner and Respondent who are both located in Lander, Wyoming. The real property is also located within the city limits of Lander, Wyoming. This Court has subject matter jurisdiction of this review pursuant to W.S. § 15-1-609. *See also*, WRAP 12.03.
4. On April 24, 2025, at the public hearing before the Respondent, the Petitioner sought a Conditional Use Permit pursuant to Lander Municipal Code § 4-9-4 to allow the operation of a short-term hostel at his residence in Lander, Fremont County, Wyoming. Petitioner’s real property is located in the R-3 Medium Density Residential Zone of the City of Lander. Petitioner’s property is approximately 2,900 sq. ft. residence. Petitioner proposed a hostel-type short-term rental with three separate sleeping quarters which would accommodate up to 18 guests. Petitioner’s application included two off street parking spaces. The Petitioner also offered to restrict vehicle numbers and provide shuttle services. In addition to his application, the Petitioner submitted written operational policies, including quiet hours, alcohol guidelines, conduct rules, and maximum vehicle numbers during the

May 15, 2025 hearing. The Petitioner's hostel would primarily serve hikers on the Continental Divide Trail, who typically hike from July through October. The use of the hostel would be seasonal.

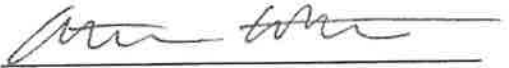
5. The Petitioner's permit was un-tabled and heard on May 15, 2025. During the hearing, the Board reviewed Petitioner's supplemental documentation and heard additional public comment.
6. The Respondent acknowledged Petitioner's plan was arguably a short-term rental which is permitted according to Lander's R-3 Medium Density Code and Lander Municipal Code § 4-12-4, but Respondent nevertheless denied the permit because the Respondent believed the use did not meet the intent of the R-3 Medium Density Residential Zone as set forth in LMC § 4-12-4.
7. Petitioner alleges the issues on appeal are whether or not the Respondent's decision was contrary to Lander's R-3 Medium Zone as well as LMC § 4-12-4. Petitioner further alleges the decision of the agency was arbitrary and capricious or that Respondent's decision was unsupported by substantial evidence.
8. Petitioner alleges this is not a related petition for review that is pending in this court or any other court.

WHEREFORE, Petitioner respectfully requests review of the *Decision and Order*, with Case No. 25.02 CU Conditional Use, issued on June 5, 2025, and an order from the Court reversing said *Decision and Order*, and order finding Respondent's decision was

arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, in excess of statutory authority and unsupported by substantial evidence.

DATED this 2nd day of July, 2025.

Respectfully submitted,



AUSTIN WITTEK
Petitioner

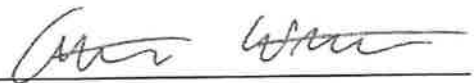
By: AARON J. VINCENT
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/s/ Aaron J. Vincent

AARON J. VINCENT


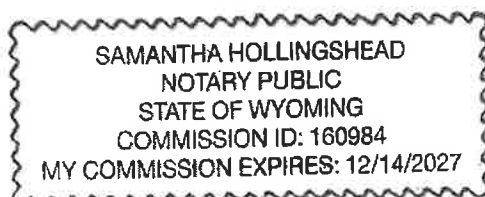
STATE OF WYOMING)
 :SS
COUNTY OF FREMONT)

I, Austin Wittek, being first duly sworn upon my oath, depose and state that I have read the above and foregoing document and the contents therein and that the same are true and correct to the best of my knowledge and belief.


Austin Wittek

Subscribed and sworn before me this 2nd day of July, 2025, by Austin Wittek.

Witness my hand and official seal.


Notary Public
My commission expires:
12/14/27

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of July, 2025, a copy of the foregoing was duly served upon the following *via* US Mail:

Adam Phillips
Adam Phillips Law Office
260 Lincoln Street
Lander, WY 82520
adam@aep-law.com

Board of Adjustment
City of Lander
City Council Chambers
240 Lincoln Street
Lander, WY 82520

/s/ Aaron J. Vincent
AARON J. VINCENT

BEFORE THE LANDER BOARD OF ADJUSTMENT

In the matter of
AUSTIN WITTEK,

Applicant.

)
)
)
)

Case No. 25.02 CU
Conditional Use

DECISION AND ORDER

THIS MATTER came before the City of Lander Board of Adjustment ("Board") for consideration on April 24, 2025, and again for further deliberation on May 15, 2025, in accordance with the procedures established by the Lander Municipal Code ("LMC") and applicable Wyoming law. Applicant Austin Wittek sought a Conditional Use Permit ("CUP") pursuant to LMC § 4-9-4 to allow the operation of a short-term rental in the form of a hostel in the R-3 Medium Density Residential Zone at 484 N 4th Street, Lander, Wyoming.

I. PROCEDURAL HISTORY

1. The application was submitted and scheduled for public hearing before the Board of Adjustment.
2. Public notice was provided in accordance with LMC requirements, including mailed notice to property owners within 400 feet.
3. A public hearing was conducted on April 24, 2025, during which the applicant, city staff, and multiple members of the public were heard. Due to the number of questions and proposed conditions, the Board tabled the matter to its next regular meeting on May 15, 2025, for further review and submission of additional materials.
4. At the May 15, 2025, meeting, the Board voted to un-table the matter, heard additional public comment, reviewed supplemental documents submitted by the applicant, and deliberated on proposed conditions.

II. FINDINGS OF FACT

The Lander Board of Adjustment, having heard the testimony, reviewed the exhibits and the application on file, and heard arguments, makes the following findings of fact:

5. The subject property is located in an R-3 Medium Density Residential Zone where short-term rentals may be permitted as a conditional use under LMC § 4-12-4.
6. Applicant resides on-site in a 900 sq. ft. portion of a 2,900 sq. ft. residence and proposed a hostel-type short-term rental with three sleeping areas, accommodating up to 18 guests.



7. The application includes two existing off-street parking spaces, and the applicant indicated willingness to restrict vehicle numbers and provide shuttle services if needed.
8. Following concerns from commissioners and the public during the April 24th meeting, the applicant submitted written operational policies, including quiet hours, alcohol guidelines, conduct rules, and maximum vehicle numbers during his May 15th testimony.
9. Neighbor testimony was divided. Several nearby residents, including immediate neighbor Sally Watt, expressed support for the application, citing confidence in the Applicant's quiet and respectful approach. Other neighbors, including Collin Crawford, Karen Wetzal, and Sandy Bidler, voiced opposition, raising concerns about neighborhood safety, the commercial character of the proposed use, potential for increased traffic and noise, and the overall compatibility of a high-occupancy hostel within a residential district.
10. From the testimony and the materials submitted by the Applicant, the Board finds:
 - a. The Applicant resides on-site and intends to remain present during the peak season (July–October). If necessary, he is willing to appoint a responsible person to manage the property in his absence.
 - b. The Applicant estimates that up to 18 guests could be accommodated at one time, based on comparisons to similar operations in Wyoming. His proposed rates range from \$30.00 to \$50.00 per night.
 - c. The subject home is approximately 2,900 square feet, of which the Applicant proposes to reserve 2,000 square feet for guest accommodations and 900 square feet for his personal residence.
 - d. Guest accommodations consist of three separate sleeping areas: two rooms with two beds sharing one bathroom, a family room, and a bunk room with a separate bath. All guest spaces are physically within the home but separated from the Applicant's private quarters.
 - e. The proposed use is seasonal in practice, though not formally limited. The primary user group, hikers on the Continental Divide Trail, typically passes through from July through October.
 - f. The Applicant currently provides two off-street parking spaces and acknowledges the importance of parking limitations in the neighborhood. He agreed to a maximum of six vehicles on-site and has stated a willingness to shuttle guests to and from designated parking areas if necessary. A garage construction for the applicant's private use is also planned.

- g. To promote safety and accountability, the Applicant intends to require credit card payment from guests to enable traceability in the event of problems. He does not conduct formal background checks.
 - h. Prior to the May 15, 2025 meeting, the Applicant submitted a policy document addressing quiet hours, alcohol use, and vehicle limits, along with site sketches showing the lot layout and interior guest configuration.
 - i. The Applicant testified that he spoke with neighbors, including adjacent property owner Sally Watt, who testified that she was initially concerned but was satisfied with the Applicant's plans and supports the proposal.
 - j. Neighbor Collin Crawford opposed the application, expressing concern that high rental density in the neighborhood has already weakened community cohesion and that the proposed operation would worsen this trend.
 - k. Neighbor Karen Wetzel presented a prepared statement expressing concern that transient guests could compromise safety, and that permitting a commercial-style hostel in a residential neighborhood would erode its residential integrity. She advocated for placing such uses in commercial zones. The Applicant responded that many of her concerns had been anticipated and addressed in his written policies.
 - l. The Applicant acknowledged the concerns of neighbors and stated he believed he had adequately responded to those concerns through his policies. He emphasized that his proposed use would contribute to the local economy by drawing tourism dollars into the community.
 - m. While the Applicant primarily targets Continental Divide Trail hikers, he acknowledged that the rental would not be exclusively limited to hikers and may be used by other travelers.
11. Multiple commissioners expressed concern that the proposed scale and nature of the use more closely resembled a commercial hotel or boarding house, which may be inconsistent with the intent of the R-3 zone.
12. Building and fire code concerns were discussed but were determined to fall outside the purview of the Board of Adjustment.
13. The Board discussed imposing conditions such as maximum occupancy, parking limits, quiet hours, and a six-month operational review, but could not reach consensus on enforceable and legally appropriate conditions.
14. A motion to approve the CUP with conditions limiting occupancy to eight (8) persons and requiring a six-month review failed.

15. A subsequent motion to approve the CUP without modification also failed on a vote of 4-0, with one abstention (Chair did not vote as the motion failed).
16. The Board determined the proposed use, as presented and without enforceable restrictions, is not consistent with the intent of the residential zoning district.

III. CONCLUSIONS OF LAW

Based upon the findings of fact, the Lander Board of Adjustment has reached the following conclusions of law:

17. Pursuant to LMC § 4-12-4, a conditional use may be granted if the proposed use is consistent with the purpose and intent of the zoning district and will not adversely affect adjacent properties.
18. The Board may impose conditions on a CUP to mitigate potential negative impacts and ensure compatibility with the surrounding neighborhood.
19. The proposed use—while arguably a short-term rental—was determined by the majority of Board members to be commercial in nature, given its intended occupancy of 18 guests, structured sleeping arrangements, and business model.
20. The Board finds that the proposed use does not meet the intent of the R-3 Medium Density Residential Zone as set forth in LMC § 4-12-4 and is incompatible with the character of the surrounding neighborhood.
21. The Board concludes that the conditional use permit must be denied, as no reasonable set of conditions were approved that would bring the proposed use into conformity with the zoning district.

IV. DECISION

Member Kara Colovich moved to approve Application No. 25.02 CU to allow the Applicant, Austin Wittek, to operate a hostel-style short-term rental at his property located at 484 N 4th Street, Lander, Wyoming 82520. Member Rob Newsom seconded the motion.

The motion failed by the following roll call:

- **Kara Colovich** – No (believes 8 clients is acceptable but no time limit is needed; hostel still not appropriate in this zone)
- **Rob Newsom** – No (views the proposal as a commercial venture unsuited to residential zoning)
- **Chris Savan** – No (due to the scale and commercial nature exceeding typical residential STRs)
- **Joe Henry** – No (concerned with the open-ended occupancy and setting precedent)
- **Chair Zach Mahlum** – Did not vote, as the motion failed without his tie-breaking input.

V. ORDER

IT IS HEREBY ORDERED that the application for Conditional Use Permit Case No. 25.02 CU, submitted by Austin Wittek, seeking approval to operate a short-term rental hostel at 484 N 4th Street, Lander, WY, is **DENIED**.

The Applicant is hereby advised that this decision constitutes a final administrative action and may be appealed to the District Court of Fremont County, Wyoming, pursuant to Wyo. Stat. Ann. § 15-1-609, within thirty (30) days of the date of this order.

DATED this 5th day of June, 2025.

LANDER BOARD OF ADJUSTMENT

By: Zach Mahlum
Zach Mahlum, Chairman

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Decision and Order was served upon the applicant by mailing the same, postage prepaid, on the 5th day of June, 2025, addressed to the following:

Austin Wittek
484 N 4th Street
Lander, WY 82520

Zach Mahlum
Zach Mahlum, Chairman

IN THE DISTRICT COURT OF FREMONT COUNTY, WY
NINTH JUDICIAL DISTRICT

FREMONT COUNTY, WY
FILED
IN THE DISTRICT COURT
Amanda Sanchez
JUL -3 2025

AUSTIN WITTEK,

Plaintiff,

vs.

CITY OF LANDER BOARD OF
ADJUSTMENT,

Defendant.

Amanda R. Sanchez Clerk of Court
By *Yvonne Pagnoni*
DEPUTY CLERK

No. 2025-CV-0044151

NOTICE OF ASSIGNMENT

The above captioned case has been assigned to District Judge
Jason M. Conder. Copies of this notice have been provided as indicated
below.

DATED this 3rd day of July, 2025.

Amanda Sanchez

Clerk of the District Court

Yvonne Pagnoni

Deputy Clerk of the District Court

Copies To:

A. Vincent – via mail

City of Lander Board Of Adjustment – via service