

■ Local

Judge hears opponents argue master plan suit

By BEN GRAHAM
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In one hand, attorney Joe Moore held the 2012 Jackson-Teton County Comprehensive Plan. In his other he held the 1994 plan.

In a Jackson courtroom Friday, he said the difference in bulk between the two documents illustrated his point.

The new document, Moore told District Court Judge Marvin Tyler, imported to hear the case to avoid any conflict of interest, is nearly twice as thick as the old version. The thickness was all detail, specifics and rules, he told the judge.

Representing Save Historic Jackson Hole and other plaintiffs, Moore argued that the detailed nature of the new plan meant it should have been adopted as an ordinance, which could have been challenged by referendum. He claimed the Jackson town council passed the new plan as a resolution to avoid putting it to a popular vote. Support of only 10 percent of registered voters is required to force a referendum. Opponents gathered 600 signatures last year demanding a vote.

The 1994 document was adopted as a resolution, Moore said, and because it was so much less detailed that was OK.

But he maintained the new plan should have faced citizens at the polls.

"Resolutions are pretty clearly intended for little things," Moore said. "This document, no matter what you call it, constrains, controls and limits."

The arguments were part of a long-festering suit over the way the plan was adopted. Plaintiffs who demanded a referendum — Save Historic Jackson Hole, Jim Genzer, Laurie Genzer, Armond Acri and Ben Clark — filed the suit last summer.

At Friday's hearing, Jackson Town Attorney Audrey Cohen-Davis defended the resolution method of adopting the plan, saying the plan is a policy document that lays out a vision for the community. Such issues are suitably adopted by resolution, she said.

"It serves as a guide rather than a straightjacket," Cohen-Davis said. "Standing alone, the 2012 master plan does not contain the elements of zoning."

After hearing from both sides, Tyler said he would issue a written decision in the near future.

Other Wyoming towns have passed plans by resolution, Cohen-Davis said.

But opponents said the comprehensive plan serves as a box within which zoning must take place.

"I can find my house on this plan and see where it's going to be zoned," said attorney Elizabeth Moore, part of the plaintiff's team. "It goes down to discussing what density will be, what the building height will be and what areas will have certain uses."

The council OK'd the document by resolution to avoid a vote, she said.

"They legislated what they will legislate," she said. "When you do adopt it and you make it that fixed universe within which you have to function, you have to do it by ordinance."

Cohen-Davis said the public can speak on development regulations as they are passed as ordinances.

She also cited a Wyoming Supreme Court ruling.

"An ordinance prescribes some permanent rule of conduct or government ... an ordinance is a distinctively legislative act," the ruling reads. "A resolution, generally speaking, is simply an expression of opinion or mind or policy."