

Clarion Associates
1700 Broadway, Suite 400
Denver, Colorado 80290
Phone 303.830.2890
Fax 303.860.1809

Planning and Zoning
Growth Management
Real Estate Consulting
Market Analysis
Appraisal

C L A R I O N

MEMORANDUM

**TO: Board of County Commissioners, Teton County, Idaho
Teton County PUD Working Group**

FROM: Clarion Associates

DATE: November 7, 2007

RE: Corrected Summary of Clarion Visit on October 30-31, 2007

Clarion Associates made a second trip to Teton County on October 30-31, 2007. The primary purpose of the trip was for Chris Duerksen and Don Elliott to convene the first meeting of the PUD Working Group appointed by the County Commissioners. In addition, Clarion staff met with additional stakeholders that we had not been able to schedule during our August trip. Before meeting with the Working Group, Clarion met with the County Commissioners to brief them on the Working Group agenda and to hear their thoughts regarding issues to be raised and discussed. The County Commissioners asked that Clarion prepare and circulate a short summary of the visit, and this is that document.

Meeting with Board of Count Commissioners

The County Commissioners were generally comfortable with the proposed agenda for the first PUD Working Group meeting. Clarion explained that the Working Group would be used as a sounding board to ensure that we heard from a wide variety of perspectives on key issues regarding PUDs. That process is expected to require three or four monthly meetings of the group. After that, Clarion will draft a proposed set of revisions to the Teton County regulations related to PUDs, including but not limited to the PUD ordinance itself. Wherever possible, Clarion will reflect the direction given by the Working Group, but where there is no clear group direction or where Clarion's professional judgment differs from that direction, we would note those facts and prepare the draft based on our best professional judgment. Our recommended draft would then be sent to the Planning and Zoning Commission for review and recommendation, and then to the Board of County Commissioners for action. The Commissioners indicated that they may want to have more public discussion and input after Clarion delivers its recommended amendments and before the formal PCZ and BOCC review process.

A portion of the draft minutes of the BOCC meeting covering the Clarion discussion is attached. Commissioner Stevenson later sent Clarion her specific comments on the Audit in writing.

The Commissioners asked whether all of the proposed revisions would need to appear in the PUD regulation itself, and we indicated that revisions would probably be made to those sections of the Teton County Code where topics are currently addressed (many of which are outside the PUD ordinance), but that those changes would probably apply only to PUDs for the time being. The Commissioners questioned whether it might be more efficient to address how development standards apply to both PUD and non-PUD projects at the same time. Clarion felt that because of the high volume of PUD applications and the apparent dissatisfaction with the current PUD regulations we should first resolve how the standards apply to PUDs. There may be some cases where parts of the same standards are recommended for non-PUD projects, but that should be decided later in the process.

First Meeting of PUD Working Group

Chris Duerksen and Don Elliott met with the PUD Working Group from 4:00 to 6:30 pm on October 30. Twelve of the 15 members were present. The meeting began with introductions of Clarion and the scope of the group's work, and with some ground rules for discussion. We emphasized the need to hear from everyone on the working group and to avoid domination of discussions by any one person or perspective. Chris Duerksen presented a short history of PUDs and reviewed strengths, weaknesses, and current trends in use and reform of PUDs. Don Elliott then reviewed the PUD Audit and focused on potential areas of improvement shown in the chart on pages 9-13. He corrected an error in the document – pending applications for subdivision or PUD approval now include 26,000 acres of land, not 1,400. Group members clarified that these figures need to be taken in the context of the 194,000 acres of private land and 288,000 acres of total land in the county.

Each member of the Working Group was then asked to give any preliminary reaction to the Audit or other comments about their concerns about PUDs or the work of the group. Some members said that they had only recently received the Audit document and were not prepared to comment on it, and Clarion indicated that comments would be welcome throughout the process. Comments from the Working Group included the following:

- The County currently does not get many benefits back in return for the flexibility and density offered through the PUD process.
- It is not possible to draft detailed standards that can take the place of human judgment in development approval – regulations should not be a straight-jacket.
- There are few standards in the county regulations to guide decision-making on PUDs.
- PUD regulations should allow for lots of flexibility to respond to the unique conditions of each site.
- The regulations sometimes contain text addressing important topics, but there is not much carry through in the decision-making process or enforcement after approval.
- Planning and Zoning Commission members are sometimes frustrated by the lack of more specific standards to guide decisions.
- The Audit shows that the regulations are not broken as badly as we thought – there is language to address most of the key goals of the comprehensive plan.
- We need to protect private property rights, especially the rights of agricultural landowners, because agriculture does not have a future in the county.
- Although the regulations allow for the appointment of a technical committee to review PUD proposals, that power has not been used.

- We need to think about whether the current densities allowed in PUDs will create the county that we want in the future.
- We need to collect better information and maps to support better decision-making.
- We should draw on the good thinking that went into the design of the draft Gateway PUD ordinance for A-20 lands last year.
- We need exposure to what other counties have done, but should avoid borrowing regulations from places that are different from Teton County.
- We need to acknowledge that some newcomers to the valley do not want to live in the towns and should accommodate that.
- We need to consider the environmental sustainability of what we approve and avoid destroying the values that make people want to visit or live in the county.
- The level of detail in the PUD controls should be appropriate to the county's very small planning staff.
- The land trust has information on natural resources and is beginning to work with private landowners for protection of important open spaces.
- The county has lots of vacant land and is gaining population at a much slower rate than land is being divided.
- In the end, economics will determine how landowners want to use their land, and we cannot change that.
- We need to consider the impacts of development on schools, roads, and wildlife.

Following Working Group comments, Clarion accepted public comments. There was only one speaker, who stated that (1) newcomers to the county often want higher amenities and services, but the county should keep services basic and taxes low, (2) there should be opportunities to develop without the use of a PUD, and (3) public access to the rivers should be protected.

Clarion will organize the next three meetings to each address a grouping of issues related to PUDs. The three groupings discussed were (1) PUD standards (including sensitive lands and impacts of development), (2) size, location, and community benefits, and (3) open space and density. **Although Clarion suggested that the first meeting would cover group 1 (standards), we have reconsidered and are now planning for the first meeting to cover group 2 (size, location, and community benefits).** Clarion will provide a background paper on the group of topics to be discussed approximately two weeks before each meeting. **The next meeting was tentatively scheduled for the first week of December, but has now been rescheduled for November 29.**

Other Meetings

Three members of the Working Group were unavailable for the meeting on October 30, and Clarion met with them individually on October 31. Their comments are reflected in the bullet points above. In addition, Clarion staff asked the county to schedule meetings with realtors and engineers knowledgeable about the local markets and types of development being requested by landowners. We met with the following individuals to discuss those issues:

- Mark Rockefeller: Teton Valley Realty
- Julie Robinson: Real Estate of Jackson Hole
- Jennifer Zung: Harmony Design

Excerpts from DRAFT Teton County Boards of Commissioners Meeting October 30, 2007

Clarion consultants Don Elliott and Chris Duerksen were present to discuss Clarion's Planned Unit Development Audit report and their plan for the PUD Working Group meetings. Mr. Elliott said the PUD Audit was Clarion's attempt to analyze the county's Comprehensive Plan and compare it with specific PUD regulations. Although they have identified and listed many "possible improvements," Clarion is making no recommendations until learning the opinions and ideas of the Working Group.

Mr. Elliott said the first meeting of that group would include introductions, a presentation concerning general PUD trends across the nation, and a review and discussion of the PUD Audit report, in particular the five pages of "possible improvements." The consultants want to hear each member's specific reactions and comments concerning Audit and possible improvements to the current ordinance. They expect to hold three additional Working Group meetings. Each of those sessions will most likely focus on a specific topic (such as standards, densities or location). Three of the 15 group members are unavailable for tonight's meeting but will be interviewed individually. Learning the thoughts and opinions of the 15 members was Clarion's top priority, said Mr. Duerksen, and public comment will not be accepted during the meetings unless time permits.

The consultants asked the commissioners not to attend meetings of the Working Group, explaining that the presence of elected officials usually inhibits the free exchange of ideas and opinions. "You need to let the advisory group speak freely," said Mr. Elliott. Clarion agreed to provide a written memo after each meeting of the PUD Working Group and offered to meet with the Board each time they come to town. County Planning staff will record each meeting and provide concise written minutes. However, Mr. Elliott said everyone must understand that the minutes will be a simple summary of a free exchange of ideas and opinions among working group members. Mr. Elliott encouraged each Commissioner to provide a written memo outlining their own reactions and comments relating to the PUD Audit.

Concerning the role of the planning administrator, Mr. Elliot said Mr. Hibbert should attend the meetings strictly as a resource person (i.e. to answer questions about current processes) and should not provide input into the discussion. He will be asked to review the first draft of a proposed PUD Ordinance.

After Clarion receives advice and guidance from the Working Group, they will draft a new PUD ordinance. They do not currently have plans for an informational meeting prior to the P&Z Commission public hearing concerning the draft ordinance but could hold such a meeting if the Board so desired. Mr. Duerksen said Clarion will do their best to reach consensus within the working group, but noted such consensus is not always possible. In the end, Clarion will use their "best professional judgment to make recommendations to the Planning Commission," he said.

Former planning administrator Larry Boothe (who is the TVA representative on the Working Group) described the checklist process he implemented when the current PUD ordinance was adopted and discussed the importance of allowing decision-makers to use their judgment during the approval process. He said there could be possible legal difficulties if the county adopts standards more strict than those set by the state. Mr. Boothe asked that the county's Comp Plan maps and PUD checklists be available for the Working Group meeting.

Former planning commissioner Bob Lewis explained the history behind the PUD ordinance, said the county has tried to work with other agencies, such as the school district, and urged a balance between judgment and objective standards.

Mr. Duerksen said the county will search for the appropriate balance between "certainty and flexibility" but said there must be a very clear baseline of standards. Concerning the transfer of development rights, he said Idaho's law was quite unusual, but could be used, and the possibility will be investigated.