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**C L A R I O N**

## **MEMORANDUM**

**To: PUD Working Group**  
**Cc: Teton County Board of Commissioners**

**From: Clarion Associates**

**Date: November 14, 2007**

**RE: Key Issue Background Paper #1 on  
PUD Size – Uses – Community Benefits**

### **INTRODUCTION**

Clarion Associates recently completed a detailed audit of Teton County's Planned Unit Development (PUD) regulations (Chapter 9.7 of the county code), assessing how those regulations implement policies in the Teton County Comprehensive Plan and to what extent they reflected Smart Growth principles. Clarion also undertook a series of interviews with developers, environmentalists, and other citizens to get their perspective on shortcomings, gaps, and inconsistencies in the current PUD provisions. Finally, we reviewed the proposed Gateway Reserve Area Ordinance that suggests tailored revisions to the PUD regulations as they apply to the State Highway 32 and 33 corridors in northwestern portion of the county.

Based on this background reconnaissance, we have identified six key areas for potential revisions to the PUD regulations that we would like to discuss with the PUD working group. These include:

- **Size** of PUD (minimums and maximums)
- **Uses** allowed in PUD (residential, commercial, incidental)
- **Community benefits/amenities** (e.g., open space, affordable housing, EMS stations)
- **Development standards** (e.g., resource protection, cost of services)
- **Location** (areas of city impact, rural reserve areas, proximity to county services)
- **Density** (incentives, maximums)

This paper addresses the first three of these topics – PUD size, uses, and community benefits/amenities. Later versions of this paper (to be distributed before later meetings) will address the remaining three topics.

This section discusses each one of the key issues in more detail, discusses alternative approaches being used in other communities across the country, and offers Clarion’s preliminary guidance on the topic. That guidance is provided to facilitate Working Group discussion, and could change based on Working Group comments.

## **ISSUE #1: PUD Size**

### ***Discussion***

PUDs have historically been geared towards large developments that can provide adequate funding for impact mitigation and compensating community benefits in exchange for increased density and flexibility with development standards. The current regulations do not address contain a minimum size for PUDs.

A second issue is the maximum size of a PUD. Large PUDs in rural areas can fragment open space, erode rural character, and require costly county services. The PUD Audit noted that the zoning purpose statement in section 8-1-3-A and the subdivision purpose statements in sections 9-1-3-D and E mention these issues, but that the current regulations do not include standards to reduce or avoid these impacts.

While the current subdivision regulations acknowledge the importance of size in section 9-6-2 (which requires that applicants for subdivisions of more than six lots submit information on public services to be provided, estimated tax revenues to be generated, suggested means of financing services if not covered by taxes, and impact analysis on public facilities), they do not address maximum or minimum sizes of PUDs or clusters of housing within a PUD. The draft Gateway PUD ordinance encourages clustering of homes to minimize environmental and visual impact (and other impacts), but also does not address maximum or minimum sizes of PUDs or cluster size.

### ***What Other Jurisdictions Are Doing—Alternative Approaches***

The majority of jurisdictions surveyed included a minimum parcel size requirement for PUDs. In more urban counties, the minimum is often 5 acres. For example, in Ada County, the minimum size is five acres for PUDs, which can only be located in city impact areas. Master planned communities in Ada County must be at least 640 acres.

Minimum parcel size for residential PUDs in rural jurisdictions tends to be somewhat larger—10-20 acres and up. For example, Martin County, Florida, a rural jurisdiction with large tracts of agricultural and environmentally sensitive

lands, sets the minimum at 20 acres. On the higher end of the scale, McHenry County, Illinois, (a rural farming county in northern Illinois) requires a minimum of 40 acres for residential PUDs in rural areas. Eagle County, Colorado, uses a minimum of 10 acres for cluster development in some rural zone districts and minimums of 10 to 70 acres (depending on the zone district) for conservation subdivisions. Gallatin County, Montana, requires a minimum of 40 acres for master planned communities and 10 acres for other PUDs. The national trend in recent years has been to increase the minimum size of PUDs to cut down on their use on smaller parcels, except for urban infill development sites.<sup>1</sup> On the other hand, some counties still retain very small PUD minimums for rural areas –. Garfield County, Colorado, for example, specifies a 2 acre minimum.

A few rural jurisdictions are imposing limits on maximum number of lots that can be in a single rural PUD or within a single housing cluster within the PUD. Blaine County, Idaho, does not allow cluster subdivisions to have more than five-lots in a single cluster “to avoid creation of new rural towns or villages.” Up to 20 lot clusters are permitted if the development is within ½ mile of an existing unincorporated town site or village. Snohomish County, Washington, limits rural clusters to no more than 30 units.

***Key Discussion Issues:***

- Should Teton County establish a minimum size for PUDs? PUDs in rural areas?
- If so, what is a reasonable size minimum?
- Should the county establish a maximum PUD size in rural areas? Or for the number of lots in a single rural cluster? If so, what should it be?

***Clarion Guidance***

To ensure PUDs are large enough to provide adequate funding for community services and amenities, Teton County should consider adopting a minimum rural PUD size of 40 acres. This would also ensure that open space set asides were at least 20 acre. A smaller minimum size might be appropriate for PUDs in urban service areas.

Teton County should also consider adopting a maximum size limit on PUDs in the rural reserve area to avoid introducing municipal densities in rural areas, fragmenting open space, and creating pockets of development that are costly for the county to serve. We recommend a maximum size limit of 100 acres or 10 lots, whichever is less.

**ISSUE #2: PUD Permitted Uses**

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<sup>1</sup> As will be discussed in the white paper for the fourth PUD Working Group meeting, an increasing number of rural jurisdictions do not allow PUDs except in urban service areas.

### **Discussion**

Many jurisdictions allow and even encourage or require a mix of uses in residential PUDs, especially those located in or near a city, so that residents will have easy access to shopping and jobs. Some require a mix of housing types as well to encourage more diverse, balanced communities. As discussed in the PUD Audit, Smart Growth principles encourage a mix of uses in urban areas to reduce driving for work and shopping and also promote accessory dwelling units to provide affordable housing (See Audit pp. 33.).

The county's current PUD regulations are primarily geared towards residential uses, but section 9-7-5 allows the board of county commissioners the flexibility to allow up to 2% of the developed acreage of a PUD (not including open space) to be devoted to "incidental land uses." These uses must be "incidental, necessary or desirable and appropriate with respect to the primary purpose of the PUD" However, this term is not well-defined.

While thoughtful mixed uses in urban areas often make sense in that they reinforce urban character and can shorten driving trips, mixing uses in rural areas can raise more difficult issues. In order to preserve rural character, many rural counties limit commercial uses to those that provide for the daily convenience shopping needs (not the destination shopping needs) of nearby rural residents. But the smaller the rural PUD or cluster, the less likely it will be able to support economically viable convenience shopping stores. To make these uses more viable, builders sometimes locate them along the frontages of major roads or highways (rather than near the center of the residential areas), so that they can gain sales from drive-by traffic. However, because the buying power of drive-by traffic (particularly for fuel and related goods) often exceeds the buying power of nearby residents, community-oriented stores can tend to change in to highway-oriented stores over time, and that can compromise the rural character that the county intended to protect.

The draft Gateway PUD ordinance would have refined the 2% standard by requiring that the uses be "necessary and appropriate" (instead of "incidental, necessary or desirable and appropriate), and provided equestrian development as an example of an appropriate incidental use.

### ***What Other Jurisdictions Are Doing—Alternative Approaches***

Many PUD ordinances give the developer broad leeway to proposed an appropriate mix of uses. Others tie the allowed uses to an underlying base zone district or districts. For example, St. Lucie County, Florida (a rural, fast-growing county north of Ft. Lauderdale) allows only uses permitted in the underlying agricultural or residential zone district. Still others leave the use mix open but require consistency with the community's comprehensive land use plan. Garfield County, Colorado (which is home to many workers employed in nearby Aspen), specifically requires a finding of conformity with the county comprehensive plan. Routt County, Colorado, (Steamboat Springs area) does the same. Both of these

county's land use plans have detailed future land use maps. Larimer County, Colorado (outside Fort Collins), allows uses in accord with applicable detailed areas plans or "considers municipal recommendations." However, PUDs are only allowed in designated urban service areas or designated rural hamlets, not rural zone districts.

Where appropriate locations for non-residential uses are tied to a comprehensive plan or growth management plan, they are sometimes subject to specific use restrictions or size restrictions. Many counties allow rural residential PUDs to include accessory uses related to housing or agriculture such as recreation centers, riding stables, and golf courses. Far fewer allow commercial uses, and then subject to significant restrictions. St. Lucie County, Florida, allows no more than three percent or 10 acres of land in a residential PUD (whichever is less) to be devoted to neighborhood commercial uses to serve residents of the PUD. Ada County, Idaho, allows a maximum of 20,000 square feet of commercial uses in a PUD, and Missoula County, Montana, permits up to 30,000 square feet. Eagle County, Colorado, has adopted a specific list of low-impact agriculture-compatible uses for conservation subdivisions. Washington County, Utah, also establishes a list, but allows for approval of similar low-impact uses. Blaine County, Idaho, bans all commercial uses in rural zone districts.

A trend we are witnessing is an increasing number of urban and suburban communities requiring a mix of land uses, especially residential housing types, in PUDs. The goal is to promote housing diversity and affordability. To illustrate, Rockville, Maryland, (a suburb of Washington, D.C.) requires at least two different dwellings types in a PUD larger than 10 acres. Garfield County, Colorado, PUD approval criteria state that all PUDs "shall provide a variety of housing types and densities." King County, Washington (located outside Seattle with significant agricultural and open lands) provides significant density incentives for affordable housing in urban/suburban zone districts.

***Key Discussion Questions:***

- Should the county's use regulations be revised to allow by-right mixing of uses in a PUD, especially those located within city impact areas or an urban reserve?
- Are the current use regulations allowing 2% incidental uses appropriate for PUDs in the rural reserve area, where introduction of non-residential uses may not be in keeping with the rural character? Should there be size limits on individual uses or controls to discourage the creation of highway-oriented uses?
- Should accessory affordable housing units be allowed or required in PUDs?
- Are there certain uses that should be prohibited as incidental uses in residential PUD (e.g., large commercial)?

### *Clarion Guidance*

The use mix issue should be considered separately for PUDs proposed for the rural reserve area and those to be located in urban service and urban reserve areas.

PUDs in urban service areas should be allowed to have a wider range of uses in order to provide commercial services to residents. However, the number and size of such incidental commercial uses should be carefully limited so as not to create commercial centers that compete with established commercial areas in the county's municipalities. We suggest a square footage limit (as opposed to a more imprecise acreage percentage limit) of 20,000 square feet, which would be enough to allow a small convenience shop, video store, and one or two other small commercial uses. The county should also consider allowing or requiring a residential type mix (e.g., single-family, townhouses, multi-family, accessory housing units) in urban area PUDs.

Use mix in rural PUDs should avoid creating suburban growth centers that are costly for the county to serve and that undermine the rural character of such areas. We recommend that only accessory residential uses (not commercial uses) be allowed in rural PUDs and that they be open-space related such as golf courses, cross-country skiing courses, riding stables, and recreation centers. Accessory affordable housing might also be permitted.

## **ISSUE #3: Community Benefits**

### **Discussion**

One of the original rationales behind the PUD concept was to trade-off flexibility in uses, density, and dimensional standards (e.g., setbacks and height) for compensating community benefits or amenities. Many PUD ordinances carry language that the host local government expects to receive exemplary benefits or design quality beyond that specified in standard development regulations as a quid pro quo for this flexibility.

The current county PUD regulations require that between 20-50% of a site be set aside as open space or recreational facilities such as ball fields and golf courses in return for increased densities. The proposed Gateway ordinance increases the open space requirement to 70% in some instances. This level of required open space compares favorably to dedication/set aside requirements in other jurisdictions in the West. However, there are no other requirements or options for providing enhanced community benefits.

The PUD Audit points out numerous comprehensive plan policy statements and zoning/subdivision intent statements related to community benefits. For example:

- Schools policy 2 emphasizes the need for adequate schools, and zoning intent statement 8-1-3.A calls for development decisions to avoid adverse impacts on schools.
- Transportation policy 1 calls for roads to be updated to meet the needs of the growing population, and actions 1 and 2 call for support of the Teton County Transportation Plan 2020 and establish a priority list of improvements. Transportation policy calls for the county to investigate a public transportation system, and action 7 calls for the county to support public transportation to Jackson. Transportation action 4 states that existing view corridors should be provided with view corridors and pullouts. Transportation policy 2 states that the Teton Valley Trails and Pathways long-range plan should be supported where economically feasible, and related action 8 encourages the creation of multi-use pathways separate from roadways where possible and suggests that nearby property owners be involved in construction and maintenance (construction to be primarily through grants and private sources).
- Special Areas policy 1 encourages the preservation of historic sites and buildings.
- Housing policy 2 encourages opportunities for diversity in housing choice and affordable housing availability.
- Community Design Policy 1 encourages the preservation of scenic vistas, forests, and wetlands.

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Many communities, as part of their PUD processes, require other compensating benefits such as affordable housing, erection of facilities such as schools, fire and police stations, and community centers, and off-site road/infrastructure improvements necessitated by the development.

The draft Gateway PUD ordinance included many more standards and criteria regarding the location of both development and open space (which will be discussed during the PUD Working Group meeting on development standards), but did not require any community benefits/amenities to be provided other than open space.

***What Other Jurisdictions Are Doing—Alternative Approaches***

One of the most prominent trends across the United States regarding the issue of PUD community benefits is that local jurisdictions are getting away from playing unrestricted “let’s make a deal.” Increasingly, counties are specifying that community benefits must exemplary in some respects and must go beyond open space. Others are more specific in identifying the types of community benefits they expect to see as part of a PUD application.

While open space dedication or set aside was often the focus of first-generation PUDs, that is no longer the case. Requiring set aside of a specified percentage of open space is still the most common community benefit required in PUD regulations. As noted above, the county's requirement of 20-50% open space dedication compares favorably with some jurisdictions, but falls short of others. For example, Garfield County, Colorado, requires 25% minimum open space and has detailed regulations regarding the types of open space it desires. Routt County, Colorado, also specifies 25% open space, but counts only "usable" open space towards this number. McHenry County, Illinois, specifies a minimum 40% of the gross acreage of a PUD be common open space, and sets a minimum size for each open space parcel of 10,000 square feet. Floodplains are given only partial open space credit.<sup>2</sup> Similarly, Blaine County recently amended its PUD regulations to require 50% open space dedication or set aside in its R-10 and A-20 zone districts (PUDs are not allowed in more rural zone districts).

The recent national trend is to require at least 50% open space in rural PUDs and often more. St. Lucie County, Florida, requires 50% open space in PUDs of less than 160 acres and 80% in those greater than 160 acres. Of that 80%, at least 35% must be improved parks, recreation areas, bike paths, and similar amenities. Teton County, Wyoming, requires from 50-85% open space in its rural zone districts.

These open space requirements are being supplemented by standards requiring provision of other community benefits in many jurisdictions. Affordable housing has been identified as a desired outcome of PUDs in a growing number of communities, especially those that are witnessing growth linked to second-home and resort development. Garfield County, Colorado, now requires that if a PUD increases the underlying zone district density, then the developer must provide at least 10% of the housing mix as affordable units. Missoula County, Montana, also offers bonuses for provision of affordable housing. Ada County requires dedication of public use facilities if it is demonstrated that the development creates a need for facilities such as fire stations, government offices, and the like. Recently, communities such as Henderson, Nevada (in the Las Vegas area) have begun considering specific lists of community benefits (affordable housing, fire/police stations, etc.) calibrated for the amount of density increase granted or number of development standards waived. King County, Washington, has developed a very sophisticated system along these lines, specifying density increases associated with specific amenities (e.g., 0.5 bonus residential unit density for each quarter mile of trail exceeding the minimum code requirements).

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<sup>2</sup> Although the issue of density will be discussed during the fourth PUD Working Group meeting, it is important to note that in many cases these open space requirement listed above are tied to density bonuses much more modest than those offered in Teton County. Many counties limit additional PUD density to 25%-50% above base densities. Bonuses of 100% are highly unusual. In contrast, the current Teton County Density Based PUD standards provide bonuses of several hundred percent.

In addition to open space, affordable housing, and public facilities, many recent PUD regulations require a higher level of site and architectural design beyond zoning ordinance minimums (however, unlike Teton County, they have established a wide range of quality development standards as a baseline).

***Key Discussion Questions:***

- Are the current open space set-aside requirements sufficient? Should there be more detail in the regulations regarding the type and quality of open space and configuration?
- Should the open space requirements vary depending on the location of the PUD (urban reserve vs. rural)?
- Should the PUD regulations offer the option to provide other community benefits aside from or in addition to open space? If so, what would those additional benefits be? If additional community benefits are desired, should they be required on a sliding scale calibrated to the size of the development or density increases?

***Clarion Guidance***

As with uses, the issue of community benefits needs to be separated into urban and rural area PUDs for discussion purposes.

Urban area PUDs should have a broader list of qualifying or required amenities beyond open space. These might include a specified percentage of deed-restricted affordable housing units, public facilities (e.g., roads, trails, and pathways, schools, day care centers), and special site design features (e.g., restored riparian habitat, preserved historic structures). Additionally, the county should consider allowing more flexibility regarding the provision of open space. For example, open space might be reduced to 25% of the gross site acreage in the urban services area (this would allow more compact “smart” growth) with an option to make up the remaining 25% with a cash-in-lieu payment to a county open space fund or improvements to the open space (e.g., sports fields, community recreation centers, etc.).

Rural PUDs should continue to focus on set aside of large tracts of contiguous open space, but the minimum amount should be increased to 70%. This is more in keeping with modern trends in progressive jurisdictions and is the number recommended in the Gateway ordinance. Such open space should be subject to more direction from the county regarding location, configuration, improvements (e.g., trails) and management, which will be discussed during the Working Group meeting on development standards.