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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: December 26, 2007

**RE: Key Issue Background Paper #2 on
PUD Development Standards**

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. 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)

In mid-November, we prepared a background paper on the first three issues – size, uses, and community benefits/amenities, and the PUD Working Group met on November 29 to discuss those issues.

This second background paper addresses the fourth of these topics – PUD development standards – which the Working Group is scheduled to address on January 15, 2008. A final background paper (to be distributed before later meetings) will address the remaining two topics. This paper discusses PUD development standards 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 #4: PUD Development Standards

Discussion

The term “development standards” can cover a wide variety of topics. We use it to mean criteria for development design and quality not covered by the topics of development density and open space requirements. As noted in the PUD Audit, the Teton County Comprehensive Plan and Development Code regulations already discuss several aspects of development quality that are important to the county. The listed topics include the following, which can be generally grouped into discussions of rural character, land and hazards, and improvements and costs:

Rural Character	Sensitive Lands/ Hazard Areas	Improvements and Costs
Location of open space	Hillside development	Water & sewer improvements
Clustering	Wetlands	Road improvements
Scenic views	Drainage	Pathways and trails
Street and road locations	Fire/Wildfire	Costs of public facilities
Public lands access	Areas of critical concern	
Lighting	Wildlife habitat	
	Floodplains	

The PUD Audit found that while the plan and code showed an intent to influence the quality of development in these areas, the language used is often vague, subjective, or inadequate to provide guidance to applicants, the PZC or the BOCC as to what is required. In some areas (such as scenic views and hillsides) the approach reflected in Teton County’s code is not consistent with mainstream practices and are addressed in this memo. However, we think that three topics are adequately covered by existing regulation, and we will not address them in this memo. Wetlands have been addressed through the adoption of the nutrient/pathogen study ordinance (section 9-6-3-C), floodplains are addressed primarily through compliance with Federal Emergency Management Agency (FEMA) regulations, and fire/wildfire protection standards are tied to the Uniform Fire Code (section 6-8). Four other issues (public land access, lighting, drainage, and pathways/trails) are included in an appendix for future consideration, but again we feel they do not need immediate attention.

Removing the three areas where existing regulations are adequate and four more topics that Clarion believes are of lower priority for this process leaves ten development standards topics to be discussed in this memorandum. Teton County’s current treatment of those ten items is summarized below:

- **Location of Open Space**

Contiguity with existing open space is encouraged, but no location factors are included. Protecting scenic views, defined critical areas, or existing agriculture are not mentioned. The draft Gateway ordinance called for clustered housing to minimize impact on prime farmland, woodlands, wetlands, and mature trees. Contiguity of open space was listed as a criterion for approval. The ordinance identified wetlands, riparian corridors, wildlife habitats and corridors, and some scenic resources as priority open spaces to be protected first (before other areas were included in protected open space).

- **Clustering**

Clustering is encouraged, but no standards are provided for size or location of clusters or desire to achieve compact growth patterns or protect specific lands or views. The draft Gateway ordinance included a guideline that development should be clustered to minimize impacts on natural, scenic and cultural resources or sensitive lands, but did not include standards.

- **Scenic Views**

50-foot setback from four major roads, plus development review within 330 feet of those roads to protect investment and occupation within that corridor. No specific views are defined or protected (this is a major difference from most effective scenic view regulations). The draft Gateway PUD ordinance would have required analysis of view corridors/scenic features and included significant language about the need to protect them, but did not identify or define them. A draft Gateway guideline recommended the use of limited building envelopes to reduce ridgeline silhouettes, promote sensitively scaled structures, minimize soil and erosion, and minimize impacts on neighboring properties. Use of building envelopes and mitigation of skyline, ridgeline, and canyon areas were included as criteria for approval, without standards.

- **Street and Road Locations**

Required to be in “proper relation” to topography of the site. On hillsides, follow natural terrain, avoid cut-and-fill or soil disturbance, and minimize impervious surfaces.

- **Hillside Development**

Separate provisions in zoning and subdivision regulations. PUDs required if more than 15% slope (county engineer/PZC set location and density). 10 factors listed, but no standards. 25-foot height limit unless clustered. Skyline avoidance mentioned but weak. The draft Gateway PUD ordinance would have required analysis of slopes and soil types and called for avoidance for sensitive areas, but did not define them.

- **Areas of Critical Concern**

For lands shown on map 5 (which shows agriculture, marginal agriculture, wetlands, and hillsides), applicant must prepare a natural resources inventory; evaluate impacts on natural resources, aesthetics and water quality; propose mitigation; and identify unavoidable impacts. Natural resources are not defined. The draft Gateway PUD ordinance would have required analysis of other unique site characteristics and called for avoidance for sensitive areas, but did not define them.

- **Wildlife Habitat**

Protection is mentioned in the PUD intent statement, but no implementing regulations. The draft Gateway PUD ordinance would have required analysis of wildlife corridors, feeding areas, fencing, and other wildlife issues, and called for avoidance of them, but did not define where they were or how to locate them. Protection of habitat was listed as a factor for review, but not a standard that must be met.

- **Water and Sewer Improvements**

Requires that subdivision water and sewer systems meet applicable regulations of state, district 7 health, and DEQ (if any) for water and sewer systems. The draft Gateway PUD ordinance would have granted a density bonus for inclusion of central water system or use of decentralized wastewater collection and treatment systems

- **Road Improvements**

Requires that developer pay for street improvements “adjacent and required” by development. Law restricts road exactions not required to serve applicant’s traffic.

- **Costs of Public Facilities**

PUDs with six or more lots must submit report on public services needed, estimated tax revenues, how to provide services not covered by taxes, and impact on public facilities. Purpose statements call for avoiding adverse impacts, but no standards or requirements.

What Other Jurisdictions Are Doing—Alternative Approaches

County governments use a variety of approaches to these types of development standards, some of which are summarized below. Because Teton County already has fairly good intent statements and application material requirements on these topics, we have not focused on those aspects of development guidance. Instead, we have focused on counties that have specific regulations, standards, or incentives addressing these issues.

- **Location of Open Space**

There is a wide divergence of county approaches to this issue, but the trend is toward describing the types of land to be included in required open space in more detail. On one end of the spectrum, jurisdictions like Garfield County, Colorado, use fairly vague performance standards requiring that the required open space “shall strive for optimum preservation of natural features”. On the other end, Larimer County, Colorado, and other jurisdictions provide detailed standards for the required contiguity and environmental quality of open spaces (particularly for clustered development), establish mandatory building envelopes within clusters and buffering areas along their edges. In general, the trend is towards requiring early analysis of defined natural features (sometimes including visibility from highways) and design of the development to avoid those features. Pitkin County, Colorado, defines “constrained areas” and requires that development avoid those areas – in effect pushing the open space into those areas.

- **Clustering**

While the term “clustering” is used loosely to cover a variety of development patterns, it is generally not used to address PUDs that require only a percentage open space set-aside. “Clustering” is more accurately used to describe site layouts that are consciously designed to protect defined natural assets, with building lots being relatively small and carefully sited to avoid interference with those assets. Garfield County, Colorado allows clustering as an option in PUDs, but makes it mandatory for applicants requesting a conservation subdivision (essentially a large open-space-oriented development. Missoula County, Montana, makes clustering optional, provides a menu of specific options for the layout of the clusters and common open spaces, and allows only 50% of hillside lands to count towards the required open space set-aside. Larimer County, Colorado, specifies that rural development be clustered, provides detailed layout standards, and establishes a building envelope for each lot.

- **Scenic Views**

Counties take a variety of approaches to scenic view protection, but most differ from the current Teton County regulation in that they are based on specific defined views or types of views (ridgelines, peaks) as viewed from key viewpoints, and not just about the foreground view near the road. One of the simpler examples is Blaine County, Idaho, which reduces development densities on slopes over 15% within a scenic view corridor from Highway 75 (elsewhere, the density reduction applies to slopes over 25%). In this case, the county does not designate specific views, but tries to reduce the amount of development in general as viewed on hillsides visible from their major roadway.

Properly designed view protection standard are difficult to draft because they should address the view of something (e.g., a river or ridge or valley) as viewed from a defined place (usually a road segment or public space). It is often not enough to state that the view of X should be protected from highway Y, because something near highway Y will almost inevitably obscure the view at some point. In short, most scenic view protection requires some level of view analysis, but that level differs widely among different counties. Eagle County, Colorado, has adopted controls to avoid ridgeline development as viewed from a named list of roads, requires a visual analysis and modeling or photo simulation of proposed development as viewed from those roads, mandates mitigation of visual impacts (with specifics included on plat notes), and a finding that the development as mitigated will have no significant impact on views from the road. Pitkin County, Colorado maps 10 scenic corridors and lists 10 descriptive standards to guide development on foregrounds, hillsides, and ridgelines as viewed from those roads. In addition, Pitkin County lists four other standards to be met by outside the mapped corridors to the maximum extent feasible, and lengthy (voluntary) guidelines address the location of development throughout the county with respect to meadows, stands of vegetation, topographic breaks, and ranch compounds. Routt County, Colorado has mapped scenic corridors and applies controls to structures between 1/2 and 3 miles from those roads if they are visible for at least one mile (which need not be contiguous) along those roads. Controls are designed primarily to prevent ridgeline development and require the use of computer view mapping for compliance.

- **Street and Road Locations**

Sublette County Wyoming prohibits development on slopes above 30% or roads crossing those slopes unless it is unavoidable (i.e. no other access is possible) and the roads are engineered and revegetated to minimize soil disruption and slope failure. Weaker performance standards apply to all roads on or across slopes between 8 and 30%. Salt Lake County, Utah, has standards very similar to Sublette County, but allows very short runs of roads (e.g., 100 feet) across steep slopes in limited circumstances. Pitkin County, Colorado, has detailed standards allowing roads and driveways on slopes greater than 30% as exceptions to severe restrictions on development (i.e. they allow roads and driveways with mitigation to cross slopes where they would not allow construction of a house.)

- **Hillside Development**

Many counties provided detailed planning/engineering data to prohibit development that would create public safety hazards. Ada County, Idaho uses more detailed standards tied to 15% slopes or adverse conditions for slope stability, erosion, or sedimentation. Blaine County uses an overlay district that requires a 160 acre minimum lot size for lands with more than 25% slope in rural areas, and a 40 acre minimum in urban areas. Eagle County, Colorado uses a more detailed approach, requiring an impact evaluation for slopes greater than 30%, and reviewing the analysis using standards that include minimizing soil disturbance and visual impact, and allowing the county to impose building envelopes if necessary to reduce impacts. Payette County, Idaho has detailed disturbance standards and cut-and-fill controls applicable to all slopes over 10%.

Missoula County, Montana's standards are also relatively detailed, and apply to all development on slopes greater than 10%. Additional drainage requirements apply to sites with over 35% impervious coverage, driveways must minimize cut-and-fill and require review if over 150 feet long. Subdivision regulations require that all lots contain a building envelope of at least 2,000 square feet located on land with less than 25% slope. Development on slopes of 20-29% must leave 70% of those slopes undisturbed, and development on slopes over 30% must leave 90% of those slopes undisturbed. All development on slopes over 20% requires a grading permit.

- **Areas of Critical Concern**

In addition to hillsides, floodplains, and wildlife habitat, counties sometimes adopt additional controls governing development on other sensitive lands. Although definitions of "critical areas" vary widely, many counties use the term to refer to lands where soils or other conditions create threats to public health and safety. In Blaine County, Idaho, specific avalanche standards prohibit development in high risk areas. Eagle County, Colorado, incorporates by reference geologic hazard maps and requires a geologic hazard analysis in those areas. The analysis is referred to the Colorado Geological Survey for comment and considers those comments. In addition, the county requires an environmental impact report covering 15 different site development actions (i.e. changing a slope, grading a driveway) and seven natural systems.

Garfield County, Colorado's, existing geologic hazard standards are tied to mapped areas; all development on lands within those mapped areas must comply with detailed standards covering eight different types of hazards. The county is currently in the process of adopting a new development code, however, which will strengthen geologic hazard provisions by establishing red (no development) and blue (development with mandatory mitigation) areas. Development in the blue area must meet detailed standards for ten different geologic conditions, and mitigation must be designed by a qualified engineer is included and approved by the Board of County Commissioners.

Alpine City, Utah, a town of around 8,000 people in the foothills about 50 miles southwest of Salt Lake City, has established zones for mountainous and hillside areas that have steep slopes, unique soil characteristics, wildfire hazard, and other similar environmentally sensitive features. The zones contain minimum standards to control development activities, preserve safe living conditions, and prevent developments that might increase hazards. Lot sizes are increased depending on the slope and no building is allowed on slopes steeper than 20% in a geologic hazard overlay district.

- **Wildlife Habitat**

Many counties tie their regulations to mapped habitat and migration corridors for specific species provided by state agencies and require that applicants show those areas on their plans. Blaine County, Idaho, requires protection of elk and mule deer habitat and migration corridors based on IDFG information and list several detailed criteria for review of the submitted development plan. In Eagle County, Colorado, the planning director can require a wildlife analysis and referral to the Colorado Division of Wildlife for any of 13 listed species. The county will consider, but is not required to accept, comments and mitigation proposed by CDOW. Use of wildlife-proof refuse containers is required. Summit County, Colorado (Frisco/Breckenridge) includes detailed standards for erecting wildlife-friendly fencing, avoiding fragmenting critical wildlife habitat, and protecting migration routes.

Chaffee County, Colorado, a ranching/second home jurisdiction of about 25,000 people located east over the Collegiate Mountains from Aspen, has adopted detailed development assessment and mitigation requirements for developments that might have an adverse impact on high-value wildlife habitat. Neighboring Custer County (population 3700) to the east in the Wet Mountain Valley also has adopted extensive standards to protect critical wildlife habitat. All PUDs are subject to a detailed wildlife review policy that has as a key principle the avoidance of disturbance of important wildlife habitat.

- **Water and Sewer Improvements**

Mesa County, Colorado, requires that properties within a defined urban planning area connect to existing wastewater treatment systems if they are located within 400 feet of those lines and the system has capacity to serve the property. Pitkin County has detailed standards to ensure that adequate water is available before accepting applications for subdivisions or PUDs, and requires that lands within one-half mile of existing public water systems connect to those systems.

- **Road Improvements**

Mesa County, Colorado, requires that applicants improve adjacent streets to the standard of a local street unless their traffic generation exceeds the capacity of a collector street, in which case they are required to build improvements not exceeding the costs of one-half of an arterial or collector street. Several county governments in Colorado, Wyoming, Utah, Idaho, and Montana now address off-site road impacts through development impact fees rather than dedication and construction requirements. Dedication and construction requirements still apply to on-site roads.

- **Costs of Public Facilities**

Pitkin County, Colorado, addresses this issue through impact fees covering health and human services facilities and park/recreation facilities.

Key Discussion Issues:

- Teton County already addresses each of the development topics discussed above. In which of these areas are the regulations most in need of improvement in order to achieve Teton County's planning goals?
- In which areas are Teton County's current regulations most in need of objective standards or clarification in order to guide the decisions of applicants, the PZC, and the BOCC.
- In those areas where change is needed, would it be are there specific bad practices that need to be discouraged or good practices that need to be encouraged.

Clarion Guidance:

In order to achieve the goals of the Teton County Comprehensive Plan in the face of increasing development pressure, priority should be given to improvements in the following types of regulations.

- **Location of Open Space** – Define a list of types of land (e.g., wetlands, high-value wildlife habitat) to be included in protected open space and require (rather than suggest) contiguity unless that is shown to be impractical based on defined criteria.
- **Clustering** – Establish objective standards for maximum (rather than minimum) lot sizes and maximum size of rural clusters in order to achieve smaller groupings of development with larger intervening open areas. Clustering might be voluntary at lower densities but mandatory at high densities.
- **Scenic Views** – Define key views (e.g., towards the Grant Tetons or the upper valley when viewed from specific locations) and protecting both foreground and distant hillside/ridgeline views from those defined locations. Although views of the Grand

Tetons will remain very valuable site assets, regulations should require that those view lots be created in locations less visible from the major highways.

- **Hillside Development** – Establish standards that map and required avoidance of steeper slopes and/or reduce permitted densities as slopes increase.
- **Wildlife Habitat** – Map and protect significant habitat and corridors and require their inclusion in protected open space. While wildlife often use areas outside of defined habitat and corridors, the failure to protect habitat and corridor areas will lead to reductions in both habitat and numbers of wildlife over time. Additionally, experience in other jurisdictions shows that protecting wildlife and wildlife habitat will not only help the local economy (hunting, wildlife viewing) but also maintain and enhance property values.
- **Water and Sewer Improvements** – While many water and sewer standards are controlled by state law, District 7 Health, or DEQ, counties sometimes supplement those regulations by requiring central systems in certain areas. Require connections to central water and sewer systems at higher densities in or near the cities. In rural areas, consider prohibiting small package treatment plants because of poor track records of maintenance and effectiveness over time (or require significant bonding to cover future maintenance or failure).
- **Road Improvements** – Move towards a system in which all development is responsible for on site road improvements and its pro-rata share of the costs of accommodating traffic growth (whether or not that impact occurs on roads adjacent to the development) and were all taxpayers bear their pro-rata share of road maintenance/upkeep costs.
- **Cost of Public Facilities** – Move towards a system where all development is responsible for its pro-rata share of the costs of other public facilities where the need is created by new growth. This could include law enforcement, administration, or social service facilities through a cash-in-lieu system.

APPENDIX

Lower Priority Development Standard Topics

Four lower priority development standard topics -- public land access, lighting, drainage, and pathways/trails – are discussed in this appendix, rather than in the body of the memo.

Teton County currently addresses these four topics as follows:

- **Public Lands Access**

Applicant required to maintain or improve public access when required by PZC or BOCC, but does not include standards to guide their decisions.

- **Lighting**

Outdoor lights brighter than 60 watts must be shielded, no off-site floodlighting allowed, lighting must be set back from property lines, and private covenants need to address the issue.

- **Drainage**

An “adequate drainage system” is required, but no standards provided. The draft Gateway PUD ordinance would have required analysis of natural drainage channels and called for avoidance of them, but did not define them.

- **Pathways and Trails**

County is authorized to require on- or off-road bicycle paths, but no standards are provided. The Comprehensive Plan encourages support of the Teton Valley Trails and Pathways’ plan, but no requirement.

What Other Jurisdictions Are Doing—Alternative Approaches

- **Public Lands Access**

Garfield County, Colorado, requires protection of public access to water bodies during the subdivision platting and development approval process.

- **Lighting**

County approaches to site lighting tend to focus on either reducing the amount of light trespass onto adjacent properties or protecting “dark skies” in general. Larimer County, Colorado has established both minimum and maximum lighting standards for commercial uses. Douglas County, Colorado, takes a more mechanical approach through detailed standards for lighting fixtures themselves – essentially ensuring that the vast majority of light is projected downwards. Many smaller communities in Arizona have adopted lighting standards to preserve the dark sky in rural areas. Cottonwood, Arizona, between Phoenix and Flagstaff is a good example of a small community with fairly detailed and strong controls on outdoor lighting.

- **Drainage**

Pitkin County, Colorado, and Salt Lake County, Utah, require maintenance of historic flow patterns and amounts to reasonably preserve the natural character of an area and prevent property damage. The county also requires on-site treatment of storm water by best management practices designed to detain and allow infiltration of runoff prior to discharge into any water body.

- **Pathways and Trails**

Garfield County, Colorado, requires the provision of trails where the County Commissioners determine that linkages to schools, shopping areas, parks, other trails, and greenbelts is appropriate and feasible. The county has established trail right-of-way standards. Pitkin County, Colorado, encourages (but does not require) trail dedications. When trails on county plans are shown across the applicant's property, the staff generally require designation of trails on the site plan even if they are not dedicated or made available to the public. When trails are designated on site plans, however, they must meet the standards of the American Association of State Highway and Transportation Organization (AASHTO).