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**C L A R I O N**

## **MEMORANDUM**

**To: Teton County Board of Commissioners**

**From: Clarion Associates**

**Date: February 10, 2008**

**RE: PUD Review Guidance**

On behalf of Planning and Zoning Commission Chairman Hensel, Commissioner Stevenson asked if Clarion Associates could provide more guidance on specific topics that should be addressed during PUD review – especially on those topics listed in sections 9-3-3-B, 9-6-2 and 9-6-3-B of the Teton County Code. The topics addressed in those sections include:

- Conformity with the Comprehensive Plan
- Relationship to surrounding development
- Site conditions that may require special treatment
- Identification of public services that would be provided to the development (fire protection, police protection, central water, central sewer, road construction, parks and open space, recreation, maintenance, schools, solid waste collection)
- Estimate of tax revenue generated
- Suggested means of financing any service costs not offset by tax revenues
- Impact of the subdivision on public facilities and proposed actions designed to mitigate those impacts
- Natural resource analysis for any lands within areas of critical concern (which include primary agricultural, marginal agricultural land, hillsides, and wetlands) provided by a qualified professional approved by the commission with detailed information including but not limited to a natural resources inventory; determination of natural resource constraints and capabilities; impact evaluation of the proposed development on natural resources, aesthetics, and water quality; proposed means to reduce detrimental impacts; and unavoidable impacts of the development.

In addition, section 9-2-2 of the subdivision regulations authorizes the PZC to recommend and the Board to appoint a commission to assist with technical evaluation of subdivisions and to make recommendations to the PZC. The membership of that commission may include (but is not limited to) individuals with specific knowledge of road design and construction; sewer and water facility design and construction, health requirements for water and sewer facilities;

environmental planning criteria such as geology, water systems, vegetation and noise; solid waste; recreational and open space; schools; law enforcement; and fire protection.

In our PUD Audit last fall, we called attention to the lack of objective standards for several of the areas listed above, and some of those issues will be under discussion when we meet with the PUD Working Group to discuss background paper 2. In the meantime, we offer the following thoughts that may be helpful in guiding the Planning Director, the Planning and Zoning Commission, and the Board in reviewing these topics. Because section 9-6-3-B (the Nutrient Pathogen Evaluation ordinance) was adopted to address wetlands, and we presume that the PZC is already requiring these studies as part of PUD review, we do not offer additional guidance in that area.

We recommend that the Teton County Planning and Zoning Commission strengthen its review of PUD and subdivision applications by (1) requiring adequately detailed review materials, (2) requiring independent studies and/or the technical committee authorized by section 9-2-2 to evaluate potentially significant impacts, and (3) using clearer and more objective criteria for the review and approval of applications. Each of these areas is addressed below.

### **1. Adequately Detailed Review Materials**

If it is not already doing so, the Director or PZC should require PUD and subdivision applications to submit a map showing the following items. If the PZC believes that a map showing some or all of this information is required to evaluate the impacts of already pending applications, the Director or PZC should require their submittal prior to action on the preliminary plat. The map(s) should show:

- All legally protected open space (whether by public ownership, restrictive covenant, or designation) on adjacent PUDs or subdivision plats, as well as any proposed protected open space on the subject property.
- Any areas on adjacent properties currently used for crop production, grazing, or other agricultural uses.
- All wildlife habitat as identified by a professional wildlife biologist. As an alternative, the applicant may reflect those areas shown on the habitat maps for waterbirds, trout, grouse/raptors/songbirds, and big game prepared by the Teton Valley Land Trust.
- Those primary agriculture, marginal agriculture, hillside, and wetlands areas shown on Map 5 of the Teton County Comprehensive Plan
- All slopes on the subject property greater than 20%, as established from reliable GIS system or field survey.
- All areas indicated as “High” or “Extreme” wildfire hazard areas on Appendix A, Map 4 of the Teton County Wildland Fire Mitigation Plan (2004).
- Location of all proposed roads identifying each road segment with a grade of more than eight percent.

- All lots on the subject property within two miles of State Highways 31, 32, 33 or Ski Hill Road on which a 35 foot tall residential structure would be visible from those roads, as established by reliable terrain mapping data.
- All lots on the subject property within five miles of State Highways 31, 32, 33 or Ski Hill on which a 35 foot tall residential structure would be visible against the skyline (i.e. some or all of the structure would be visible above any slope or ridgeline behind the structure).
- All trails and pathways identified on the Teton Valley Trails and Pathways long range plan or designated on the PUD or subdivision plat for any adjacent property.
- If the subject property includes any portion of the Teton River, all existing and proposed public access points to the river. If any adjacent property contains a public access point to the Teton River and connections between that access point and State Highways 31, 32, 33, or Ski Hill Road requires access through the subject property, the planned location of any public access connection to those roads.
- A building envelope for each lot identifying the area in which the primary and accessory structures shall be located.

## **2. Independent Studies/Technical Committee for Potentially Significant Impacts**

For larger developments, the PZC may require that that applicant produce independent studies of potentially significant impacts. These studies can be required at the time of application, or at a later point in the development process when potential impacts become clearer.

- For PUD or subdivision applications with more than 20 lots, a Traffic Impact Analysis pursuant to the guidance offered by Clarion in September 2007. At a minimum, the TIA should address the current capacity of Highway 31, 32, 33 and Ski Hill Road (expressed as a percentage of available peak hour design capacity on those roads), and the additional peak hour design capacity of those roads that would be used by the proposed development. These calculations should be based on the existing levels of service on each of those roads, as determined by the County road staff (i.e., if the road is currently operating at level of service A, the comparison shall at level of service B). The TIA should clearly identify any change in level of service (for example, from LOS A to LOS B) as a result of the proposed development and what steps the applicant will take to mitigate those impacts. Furthermore, the TOA should address the condition of all county roads that will be used by traffic to and from the development, any need for upgrades to handle the additional traffic, and how the costs will be paid or mitigated.
- For PUD or subdivision applications with more than 20 lots, a Fiscal Impact Analysis, prepared by a qualified economist, comparing the anticipated tax revenues generated by the proposed development with the anticipated costs of providing county services to the proposed development, using an average cost methodology. The FIA should include a detailed analysis of the cost of maintaining county roads, providing sheriff services, and providing other county services on a per capita basis (taking into account both full-time and part-residents).

- For PUD or subdivision applications with more than 20 lots, a report by a qualified engineer certifying that the proposed sewage disposal system is adequate for the proposed development and will comply with all requirements of state law, District 7 Health, and the Department of Environmental Quality. The survey should identify any cases in Eastern Idaho in which similar types of sewage treatment have failed to meet those requirements due to inadequate design, construction, or maintenance within 20 years following installation, and steps that will be taken to avoid similar problems.
- For PUD or subdivision applications with more than 20 lots, a vegetation/revegetation plan identifying locations where vegetation will be installed in order to replace existing vegetation, stabilize any disturbed slopes, or provide visual buffering from neighboring properties or from State Highways 31, 32, 33 or Ski Hill Road.
- For PUD or subdivision applications with more than 20 lots, an analysis of potential additional school children resident in the proposed development. The analysis should indicate the potential yield of school children based on the experience with part-time and full-time resident demographics from other, similar developments in the county. The schools analysis should identify which schools the potential new students would attend, document current capacity for additional students in each of those schools, based on information from the school district. If the existing schools do not have adequate capacity to accommodate the anticipated additional students from the proposed development, the report should identify steps that the applicant shall to mitigate impacts or provide additional school capacity.

If the proposed subdivision or PUD application contains more than 100 lots, the PZC should appoint a technical committee to review the application materials and the reports identified above. At a minimum, the committee should include individuals with specific knowledge in road design and construction, sewer and water facility design and construction, health requirements for water and sewer facilities, geology, vegetation, recreation/open space, and schools. The subdivision and PUD application fee structures should be revised to recover the costs of appointing and supporting the costs of this review.

### **3. Clear and Objective Criteria for Review and Approval**

The Director and PZC should consider using the following criteria during their review and approval of subdivision and PUD applications. These criteria supplement, but do not replace, those standards contained in sections 9-3-2-C and 9-3-4-D of the Teton County subdivision regulations. These criteria should be used by the Director and PZC in their review and recommendations on subdivision and PUD applications.

The proposed subdivision or PUD application shall be recommended for approval or approved if it meets all of the following criteria. If the application does not meet one or more of the following criteria, it can be recommended for denial or can still be recommended for approval with conditions that would bring it into compliance with those criteria.

- Designated and protected open space is located and designed so that it:
  - Is contiguous with protected open space on adjacent parcels;

- Includes trails and walkways designated on the Teton County Trails and Pathways long range plan to the maximum extent feasible; and
- Includes wildlife habitat areas identified by a qualified wildlife biologist or as shown on the habitat maps for waterbirds, trout, grouse/raptors/songbirds, and big game prepared by the Teton Valley Land Trust, to the maximum extent feasible; and
- Includes hilltops and ridgelines located within five miles of and visible from State Highways 31, 32, 33 and Ski Hill Road.
- Housing sites are clustered, and building envelopes are located, so that:
  - Each cluster contains relatively few houses, and building envelopes are located, so as to preserve the appearance of a rural landscape with scattered settlements; and
  - Residential structures 35 feet tall and located within two miles of State Highways 31, 32, 33, and Ski Hill Road will not be visible to traffic passing on those roads, to the maximum extent feasible; and
  - Residential structures 35 feet tall and located within five miles of State Highways 31, 32, 33, and Ski Hill Road will not be visible above the any ridgeline (i.e. will not be visible against the sky) when viewed from those roads; and
  - They have the least impact on crop production, grazing, an agricultural activities on the subject parcels or adjacent parcels (in most cases this will require that clusters not be located along property boundaries adjacent to land in productive agricultural use); and
  - Building envelopes avoid those hillside and wetland areas shown on Map 5 of the Teton County Comprehensive Plan to the maximum extent feasible (if the entire subject property is located within the hillside areas, then the building envelopes shall be located to avoid all areas with slopes greater than 20% to the greatest degree feasible); and.
  - Building envelopes are located to avoid any lands identified as areas of “High” or “Extreme” wildfire danger on Appendix A, Map 4 of the Teton County Wildland Fire Mitigation Plan (2004).
- Roadways are located and designed:
  - To avoid rising at grades of more than eight percent to the maximum extent feasible; and
  - To follow the toe of slopes and the edges of meadows, rather than cutting across open meadows, to the maximum extent feasible.
- The application as a whole is consistent with the recommendations of each of the following, and includes any mitigation measures identified by each of the following:
  - Any Traffic Impact Analysis prepared in connection with the application; and

- Any Fiscal Impact Analysis prepared in connection with the application; and
- Any report on the adequacy of the proposed sewage system; and
- Any report on the adequacy of the school system to accommodate school aged children anticipated by the development.
- An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners association) rather than taxes, the county should have the power to enforce payments of those dues in the event the organization fails to do so.
- For purposes of these review and approval criteria the phrase “maximum extent feasible” shall mean that all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible."
- In some cases, due to land ownership boundaries or natural terrain, it may not be possible for a proposed application to meet all of the criteria outlined above. In that case, the application should meet as many of the criteria as possible, and the PZC and Board should then determine whether failure to meet the remaining criteria makes the proposal inconsistent with the Teton County Comprehensive Plan.