

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: PUD Working Group
Cc: Teton County Board of Commissioners
From: Clarion Associates
Date: February 6, 2008
RE: Key Issue Background Paper #3 on
PUD Development Standards

INTRODUCTION

Last fall, Clarion Associates 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. In December we prepared a second background paper on the fourth topic – PUD development standards – but our meeting to discuss that paper on January 15 was cancelled due to snow. This third background paper addresses the fifth and sixth topics -- PUD location and density -- discusses alternative approaches being used in other communities across the country and offers Clarion's preliminary guidance on these topics. Our guidance is offered to facilitate

Working Group discussion and could change based on Working Group comments. We now plan to discuss the second and third background papers during two meetings on February 19 and 20.

ISSUES #5 and #6: PUD Location and Density

Although issues of PUD location and density could be examined independently, comments at the second PUD Working Group meeting emphasized the need to consider location in all PUD discussions (i.e., working group member recommendations often differed depending on where in the county the land was located). In addition, the county’s current regulations address these two topics together. For those reasons, these two issues will be discussed together in this paper.

Discussion

As noted in the PUD Audit, the Teton County Comprehensive Plan and Development Code regulations do not explicitly limit the use of PUDs to certain areas of the county. However, it treats density-based PUDs differently depending on their location. First, Chapter 7 addresses Areas of City Impact. At the November meeting, the PUD Working Group agreed that PUDs (and other approvals) in these areas are intended to comply with zoning and subdivision requirements of the towns of Victor, Driggs, and Teton, and that there was no need to develop separate county PUD standards for those areas.

Second, section 9-7-6 of the Teton County zoning ordinance defines Urban Service, Urban Reserve, and Rural Reserve areas and establishes separate Density Based PUD rules for each. Those rules are summarized in the table below.

Area Name	Definition	Minimum Open Space	Maximum Density Permitted
Urban Service	½ mile outside each Area of City Interest	20% of gross acreage	Target density 80-100 du per 100 ac if connected to central water system. A2.5 zoning would otherwise allow 40 du per 100 ac, so this is a 100-150% bonus. There is no A20 land in the urban service area.
Urban Reserve	½ mile outside each Urban Service area plus area between Driggs and Victor, plus area from ½ mile west of Highway 33 to Wyoming line, plus area south of Highway 31 west of Victor	40% of gross acreage	Target density 50-80 du per 100 ac based on capacity of culinary wells, with 80 du available with central water and sewer system. Since A2.5 zoning would otherwise allow 40 du per 100 ac, this represents a bonus of 25-100% on A2.5 lands. A20 zoning would allow 5 du per 100 acres, so this represents a bonus of 900-1500% for A20 lands in the urban reserve area.

Area Name	Definition	Minimum Open Space	Maximum Density Permitted
Rural Reserve	Remainder of county	50% of gross acreage	Target density 40-60 du per 100 ac based on capacity of culinary wells, with 60 du available with central water and sewer system. This represents a bonus of 0-50% for A2.5 lands and 700-1100% for A20 lands in the rural reserve area.

Each area is shown on the map attached to this background paper.

In 2007, the Teton County Commissioners deleted references to Urban Reserves and Rural Reserves in the Comprehensive Plan, but did not delete similar references in the zoning ordinance. Nevertheless, the Commissioners’ action suggests that they may not want to follow the Urban Reserve/Rural Reserve approach in the future and may be open to alternatives.

The Draft Gateway Ordinance (which was not adopted) would have applied to the A-20 zoned lands in the northwest portion of the county, and would have required a minimum 50% open space. This proposal included a base density of 10 units per 100 acres, with bonuses available to earn an additional 20 units per 100 acres (for a maximum overall density of 30 units per 100 acres).

- A bonus of 5 du per 100 acres was available for use of a central water system for at least 50% of the units.
- A bonus of up to 10 du per 100 acres was available for wastewater management other than individual septic systems. 4 du per 100 acres could be earned through the use of a Large Soil Absorption System OR 10 du per 100 acres could be earned through the use of a Small Private Wastewater Treatment Plant.
- A bonus of up to 5 du per 100 acres was available through provision of additional open space – each 4% increase in open space above the 50% base requirement resulted in 1 additional du per 100 acres.

What Other Jurisdictions Are Doing—Alternative Approaches

Ada County, Idaho, limits PUDs to areas of city interest. Base density for each PUD is the same as the zone district from which it was created. Each 1% increase in open space above that of the base zone district raises density by 1%, but the increase is capped at 25%. Additional density can be obtained by providing public amenities other than open space. Providing 15% of the land area for a public amenity increases the base density by 10%, devoting 20% of the land for public amenities raises it 15%, and devoting 25% for public amenities raises density by 20%. The total density bonus for PUDs is therefore 45%.

For locations outside areas of city interest, Ada County uses a Planned Community District, but the tool is only available for areas of 640 acres or larger. The zone provides substantial flexibility, but requires extensive reports and studies as part of the application. Development cannot occur in sensitive areas, and the minimum net density for residential areas (after excluding all other areas) is 8 du/acre. Central water and sewer are required.

Blaine County, Idaho, does not allow large PUDs in its A160, A80, or A40 zones. PUDs are allowed in the A20 zone only if they are being used to transfer density into the district from zone districts with larger minimum lot sizes, or if they are being used to transfer density out of the district to adjacent A10 or A5 zone districts. PUDs in the R5 zone (mainly near incorporated municipalities) can earn 30% density bonuses; and PUDs in the A2.5 zone (mainly adjacent to municipalities) can earn 20% bonuses.

Eagle County, Colorado, (Vail area) allows PUDs in all areas of the county and does not establish a maximum density. However, the county requires significant public amenities beyond open space as a condition of PUD rezoning. For those developments that do not include public amenities other than open space, Eagle County uses a conservation subdivision process which grants density bonuses in rural areas in return for permanent set-aside of rural lands for protection. If 67-75% of the land is protected, the bonus is approximately 40%, if 75-85% of the land is protected the bonus is approximately 75%, and if more than 85% of the land is protected the bonus is 100%. Some of the districts to where these bonuses apply, however, have lower densities than those in Teton County. Eagle County zoning includes zone districts with 35 acre and 80 acre minimum lot sizes, in addition to zones for 20, 10, and 5 acre lots.

Garfield County, Colorado, (north of Aspen about 30 miles) is in the process of adopting new zoning and subdivision regulations, but neither the existing nor the proposed regulations limit the location of PUDs within the county. Garfield County's existing zoning ordinance uses a maximum density of 2 du per acre for PUDs, but allows increases up to 15 du/ac if both central water and central sewer operated by a city or a special taxing district are used. However, a new zoning ordinance currently in the adoption process will limit PUD density bonuses to 25% of the percentage of open land preserved. The minimum 25% open space requirement will result in a 6% density bonus above base density, while an 80% open space protection plan would result in a 20% bonus.

Larimer County, Colorado, (Fort Collins/Estes Valley) limits the use of Planned Development (PD) zoning to a defined Growth Management Area near Loveland and Fort Collins and the LaPorte planning area. Maximum densities must be consistent with the comprehensive plans for those two urbanizing areas.

Missoula County, Montana, allows PUDs in three agricultural zones, three rural residential zones, and three residential zones (i.e. the low intensity end of the zone district spectrum.) Bonuses in the residential zones range from 25-50%; bonuses in rural residential zones range from 50-100%; and bonuses in agriculture zones range from 150-200%. Ag zones with a 10 acre minimum lot size can earn a 150% bonus (down to 4 acre

lots), and Ag zones with a 40 acre minimum lot size can earn a 200% bonus (down to 10 acre lots).

Pitkin County does not limit where in the county PUDs may occur, but has separate provisions for PUDs in rural and urban areas of the county. In rural areas, PUDs are only permitted if they result in greater preservation of rural lands and rural character than would normally be required under the land use code. In urban areas, PUDs are only permitted if they promote either affordable housing or urban open space better than would normally be required under the code. PUDs are not permitted any additional density above that in the base zone district. Instead of density increases, PUDs are used when dimensional requirements need to be varied and the applicant is willing to trade rural land protection, urban open space protection, or affordable housing in order to get the required dimensional variations.

Washington County, Utah, (Located near Zion National Park) does not restrict the location of PUDs, but does not allow their use for single-family detached development. Permitted uses include multi-family, townhouses, condos, RV and trailer parks, and commercial uses. Maximum density for those uses is 6 du per ac.

Information about location and density from the examples above is summarized in the following table

County	Location	Density Bonus Provisions
Ada County, ID PUD	Urban – limited to areas of city interest	1% density increase for each 1% open space above 25%, with bonus capped at 25%
PCD	Rural, for tracts larger than 640 ac	Minimum density 8 du/ac with central water and sewer required
Blaine County, ID	PUDs not allowed in 160, 80, or 40 ac zones, allowed in 20 ac zone only to transfer density towards smaller lot zones; available in 10, 5 and 2.5 ac zones	30% bonus in 5 ac zone – from 20 to 26 lots per 100 ac 20% bonus in 2.5 ac zone – from 40 to 48 lots per 100 ac
Eagle County, CO PUD	No location restrictions	No maximum density, but significant public amenities beyond open space required
Conservation Subdivision	No location restrictions	67-75% open space = 40% bonus 75-85% open space = 75% bonus <85% open space = 100% bonus
Garfield County, CO	No location restrictions	Maximum density is 2 du/ac but BoCC can approve up to

County	Location	Density Bonus Provisions
Old PUD		15 du/ac if central water and sewer used
New PUD	No location restrictions	Density bonus capped at 25% of open lands percentage – effective density bonus cap is 20-25%
Larimer County, CO	Limited to use in two urbanizing areas -- Growth Management Area and LaPorte planning area	Density must be consistent with comprehensive plan
Missoula County, MT	Limited to three Ag zones, three Rural Residential zones, and three Residential Zones	Ag zone bonuses = 25-50%; Rural Residential zone bonuses = 50-100%; Residential zone bonuses = 150-200%.
Pitkin County, CO	No location restrictions, but separate provisions for rural areas.	No density bonuses
Washington County, UT	No location restrictions, but not available for single-family development	Max density for multi-family, condos, townhouses = 6 du/ac

Key Discussion Issues

- Several members of the PUD Working Group have stated that PUD regulations on size/use/community benefits should vary depending on whether the land was located in rural areas or near the cities. Can the existing definitions of Urban Service, Urban Reserve, and Rural Reserve lands be retained or revised as the basic breakdown between “urban” and “rural” lands in the county, or do they need to be replaced? If they need to be replaced, what would work better?
- Should there be some areas of the county where density-based PUDs are not allowed – areas in which development must proceed under the terms of base zoning districts?
- Is there a need for two PUD tools – one of which would be applicable in the current Urban Service and Urban Reserve areas and would be drafted in anticipation of eventual annexation by municipalities, and the second to be aimed at Rural Reserve Gateway Areas and to focus on issues related to freestanding rural communities?
- What is an appropriate density bonus for PUDs in the A2.5 zone district – one that would be consistent with the Teton County Comprehensive Plan for the area? Does the appropriate density bonus depend on whether the land is located in the Urban Service, Urban Reserve, or Rural Reserve area?

- What is an appropriate density bonus for PUDs in the A20 zone district – one that would be consistent with the Teton County Comprehensive Plan for those areas? Does the appropriate density bonus depend on whether the land is located in the Urban Service, Urban Reserve, or Rural Reserve area?

Preliminary Clarion Guidance

In order to achieve the goals of the Teton County Comprehensive Plan and address some of the complaints about the current density-based PUD system, Clarion suggests that the county consider the following changes. We emphasize that these recommendations are preliminary and are offered to provide a starting point for discussion with the PUD Working Group.

- **Location.** The county should consider continuing the policy of allowing PUDs in both urban and rural areas of the county, but require that development in rural PUDs (generally the Gateway and Rural Reserve lands) be clustered in small groups of lots in less visible locations in order to avoid the perception that large new communities have been created far from the existing cities, as well as the expense of additional upkeep to county roads from significantly increased traffic to these areas. As an option, consider requiring that rural areas PUDs be permitted only near paved roads or that connecting roads between state highways and the PUD be paved and maintained by the PUD.
- **Density in Urban Service/Urban Reserve Areas.** As Areas of City Interest have expanded, these two areas have also moved outwards from the cities. In effect, the expanded ACI areas serve the purpose that the Urban Service areas were intended to serve, and the Urban Service designation may no longer be needed. The county might consider removing merging the Urban Service and Urban Reserve concepts applying Urban Reserve PUD density provisions in the merged areas, and making connection to a central water and sewer system mandatory. As part of this change, the county should consider removing provisions that automatically expand the Urban Reserve areas each time the ACIs expand. The county might also consider reducing the open space requirements from 40% to 20% in these future urbanizing areas, but requiring the provision of public improvements and amenities in the open space. In return for the PUD densities in these areas the county might require agreements not to resist annexation if the cities move to annex in the future.
- **Density in Rural Reserve Areas.** For A.20 zones, the county should consider significantly reducing density bonus provisions to match general practice for rural areas in other jurisdictions – i.e. in the range of 25% to 200%. The county should also consider significantly increasing the amount of protected open space required in return for PUD bonuses – 50% may be appropriate for small parcels, but 70%-80% may be more appropriate large parcels of land. If the county wants to consider higher levels of PUD bonuses, we suggest that those be tied to more stronger clustering, stringent development standards to better protect rural character, and payments for related impacts on roads and county services. We do not recommend that additional bonuses be available through the provision of central water or sewer systems, in order

to discourage the provision of that infrastructure and the creation of scattered “new towns” in Rural Reserve areas.

- **TDR System.** One of the most serious issues facing the county is the large amount of A2.5 zoning in Rural Reserve areas, because that density is not consistent with the goals of the comprehensive plan related to rural character, scenic views, and open space. The county might consider providing a strong incentive for existing and future A2.5 zoned areas not to develop at that density. One option would be to allow for additional bonuses within the re-defined Urban Reserve Areas if applicants purchase development rights from A2.5 zoned lands.

Once again, this preliminary guidance is offered for purposes of fostering discussion of these important issues among the PUD Working Group. There may be other options that achieve the same general goals, and we look forward to hearing them.