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C L A R I O N

MEMORANDUM

To: Teton County Board of Commissioners

From: Clarion Associates

Date: September 7, 2007

RE: Moving Forward on PUD Review and Revisions

We were pleased to hear that the public hearing on August 27th went as smoothly as it did, and to receive a copy of the Board's motion regarding PUD issues that was adopted that night. Following the August 27th meeting, county staff requested that Clarion Associates amend its contract to reflect the substance of the motion, and we have forwarded that draft contract amendment to Teton County.

Pursuant to the motion and draft contract amendment, Clarion now needs to work with the Board to (1) design an appropriate public input process for review of the PUD ordinance, (2) facilitate the meetings of that group, and (3) draft proposed amendments to the PUD ordinance. We understand that the county would like this process to be concluded by the end of 2007, but understands that additional time may be needed to work through these complex issues. This memorandum sets forth our thoughts on moving forward.

The Public Input Process for PUD Discussions

Both the Board of County Commissioners and the Planning and Zoning Commission are key participants in the upcoming PUD revisions, but they should play different roles. Our August 23 memorandum emphasized the need for PZC participation, and your August 27 motion suggested that joint BOCC/PZC meetings might maximize the likelihood of arriving at changes acceptable to both groups. In addition, we received a copy of a letter from the Teton Valley Alliance to the Board suggesting that a working group of no more than twelve valley residents be appointed to address PUD issues, and we noted that both the PZC and Valley Advocates for Responsible Development were copied on that letter. During our visit to Teton County in early August, almost all of those interviewed endorsed the need for any working groups convened during this project to reflect a balance of interests and perspectives.

Our draft proposal for a public involvement process to address PUD issues is set forth below.

1. The PUD Working Group

Clarion Associates recommends that the BOCC should appoint a PUD Working Group made up of fifteen Teton County residents, with the following membership:

- The seven members of the PZC
- One member from the TVA
- One member from VARD
- Three members who generally represent the interests of agricultural property owners, real estate development interests, and/or the real estate sales community.
- Three members who generally represent the interests of habitat protection, scenic view protection, water quality protection, or controlling the costs of development to Teton County.

It would be helpful if at least two of the fifteen appointees have an interest in controlling or mitigating the costs of development on Teton County. While it is important that the resulting group be perceived as balanced and inclusive – particularly among those perceived as advocates for property rights or the environment -- it is also important that the Board appoint the persons whom the feel will be most productive in this process, so the list above should be considered a guideline within which the Board should exercise its judgment. If the Board is unable to find a good representative for one or more of the viewpoints listed above, Clarion will still raise that perspective within the Working Group's deliberations.

We recommend that the three members of the Board of County Commissioners not be members of the PUD Working Group or participate in its discussions. In our experience, Board attendance sometimes discourages others from voicing their opinions as clearly as they might, and in some cases Board members' dominate the discussion even when they intend not to. Instead, we suggest that Clarion ensure that the Board's concerns are understood by the Working Group and then keep the Board informed about the Working Group progress. Consistent with good planning practice, the Working Group should remain as a sounding board and advisory body, while the Board must maintain its role as the ultimate decision-makers as to whether to accept, reject, or modify the recommendations it receives. We recommend that all meetings of the PUD Working Group be open to the public, and that any documents prepared by Clarion Associates in the course of work with the PUD Working Group also be made available to the public.

2. Organizing the PUD Review Work

While the Board may want to move forward to discuss or finalize appointments to the PUD Working Group, we recommend that group not convene until Clarion has prepared a brief PUD audit document evaluating the strengths and weaknesses of the current PUD ordinance and discussing best PUD practices from other jurisdictions. That work would occur as part of Phase 2 in any event, but preparing this part of the audit prior to Working Group deliberations will be helpful in three ways.

- Using a PUD audit document will ensure that the Working Group is aware of the full range of issues addressed by modern PUD ordinances. Although there appears to be fairly good consensus that the permitted densities and open space ratios are ripe for discussion in Teton County, good PUD ordinances address a broader range of issues. Responses to the Clarion questionnaire make it clear that some of the frustration with the current PUD ordinance is related to those other missing standards, rather than just the density and open space standards.
- Using a PUD audit document will help educate the Working Group about the levels of detail that are appropriate for a place like Teton County. While many have criticized the current ordinance

as being too vague and unpredictable, it is also possible to go too far in the other direction, and to address topics in so much detail that they become hard for citizens to understand and for the county to administer. Having a good audit document in hand can ensure that Teton County does not over-correct for the weaknesses of the current ordinance.

- Using the Clarion PUD audit as a general organizing text for Working Group discussions will help target those discussions onto concrete issues. In our experience, conceptual discussions that are not grounded in good analysis are more prone to emotions and polarization, while steering discussion towards concrete topics, standards, and tradeoffs is more likely to engage the Working Group in a search for common ground.

For all these reasons, we recommend that Clarion Associates prepare a PUD audit document, and that the Working Group (and the public) have an opportunity to review that document before the first meeting of the Working Group.

Assuming that the Board agrees with this approach, we recommend that the first meeting of the PUD Working Group be devoted to hearing the reaction of the Working Group and the public to the PUD audit. If the Working Group or the public believe that Clarion misunderstood some issues, or missed others, then those topics can be added to the Working Group's discussion agenda. Although we believe the PUD audit is important to this process, it is also very important that neither the Working Group nor the public think that important topics have been kept out of the discussion. The first meeting of the Working Group therefore needs to allow for any and all comments about the current PUD ordinance, or hopes for PUD changes in the future, regardless of whether they are mentioned in the audit. Following those comments, however, the Working Group will need to decide which additions or corrections to the audit will in fact be considered by the Working Group – and which will not. Clarion Associates will facilitate this discussion and will offer its own advice on proposed corrections and additions. Throughout this process, it will be important to emphasize that the Working Group is an advisory body, and that Clarion will transmit their thoughts to the Board along with the revised draft PUD ordinance. Although consensus is desirable, Clarion will work with the Working Group and will forward a recommended revised PUD ordinance to the Board even if consensus is not achieved.

Following the first meeting, each meeting of the Working Group will focus on specific issues identified in the PUD audit (as modified at the first meeting). While it is important for the PUD revision process to be as open as possible at the start, it is also very important that the Working Group focus on those areas where the most work is needed, and that issues and proposals are not repeatedly "re-opened" along the way. It is important that the PUD Working Group maintain momentum in working through the audit issues, not only so that the revisions can be finalized soon (hopefully in 2007), but to build its credibility with the public and key stakeholders. During the second meeting of the Working Group, Clarion Associates will help the Working Group establish a schedule for working through the list of PUD-related issues.

We look forward to hearing the Board's reactions to this proposal, and encourage you to circulate it to the PZC and other stakeholders for their thoughts as well. If the Board agrees with this basic approach, Clarion Associates can prepare a PUD audit document by approximately October 1, circulate it to the county for a two-week reading period, and be prepared to begin Working Group meetings in mid-October. If you do not agree with the approach, or would like to discuss alternatives, we welcome that feedback. It is very important that the public input process is balanced and realistic – and that it be perceived that way by the public. If adjustments in the approach are needed, this is the time to make them.

Please let us know if you have questions or comments about any of the information above.