



Valley Advocates for Responsible Development

June 23, 2011

Fremont County Board of County Commissioners
151 West 1st North
St. Anthony, Idaho 83445

RE: Comments on Proposed Subdivision Changes

As you may know, Teton County Idaho adopted a planned unit development (PUD) ordinance in 2000 that sparked an unprecedented boom/bust cycle of subdivision activity. In 2005, Teton County amended this PUD ordinance to allow for even larger density bonuses than in the original 2000 regulations. This notorious 2005 ordinance created a development pattern that encouraged high-density housing in the farthest regions of Teton County. The 2005 PUD ordinance was finally revamped in November of 2008, but by that time, over 93 subdivisions had been platted in five years (from 2005-2010), creating 5,100 lots on 20,761 acres. The end result of these ten years of land use decisions was a grand total of 7,791 vacant platted lots in the unincorporated areas of Teton County. Today, there are 38 subdivisions with incomplete infrastructure, totaling 3,596 lots on 12,523 acres. Sixteen of these subdivisions have both an expired development agreement and no financial surety.¹

The challenges facing Teton County are daunting and will take many years to resolve. Teton County cannot afford the present day patterns of growth and struggled to provide public services to houses in remote areas. I have attached two recent fiscal impact studies of Teton County which estimate that a full build-out scenario for all the vacant lots would result in a \$1.9 million dollar annual operating deficit and a \$15.5 million dollar shortfall for capital improvements and infrastructure.

You may be asking, *How did this happen?* Looking back on the past ten years of development patterns in Teton County, certain aspects of the development code directly created today's problematic reality. **These are the three greatest weaknesses in the old Teton County development codes:**

- 1. High-Density Bonuses:** Teton County's PUD ordinance allowed for extremely high-density bonuses in sensitive and remote rural areas. This

¹ Development data taken from Teton County GIS and Planning Departments. For more information, see www.tetonvalleyadvocates.org



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allowed for development far in excess of the 20-acre base zoning, and had the effect of promoting development in areas that are expensive to service.

2. **No Consideration of Fiscal Impacts:** Teton County's development ordinances did not do a true cost accounting of development patterns. Thus, high-density housing was approved in remote areas that proved very expensive for Teton County to provide basic public services such as road maintenance and law enforcement. The tax revenue in these remote areas does not offset the costs of service; this creates a deficiency in the county's cost revenue stream. These deficiencies continue to grow today with each additional house that is built in remote areas of the county.
3. **Plats Were Recorded Prior to Infrastructure:** Teton County's ordinances allowed for final plat to be recorded prior to infrastructure being complete. This allowed developers to sell or convey lots prior to the subdivision being built.

Now Fremont County is amending its development code. It appears that the prominent sentiment amongst Fremont's decision-makers as well as county residents has been to learn from the mistakes of Teton County and not repeat history. As noted above, there were specific features in the 2000 and 2005 PUD ordinance that directly created the present-day reality in Teton County. **Here is how Fremont County's proposed changes stack up against the 2005 Teton County development code:**

- **Fremont County's proposed rural zoning densities are significantly higher than Teton County's most rural base zoning of 1 house per 20 acres.** Under the 2000, 2005 and 2008 Teton County ordinances, the rural base zoning is 1 house per 20 acres in large increment agricultural lands, and 1 house per 2.5 acres in rural residential lands. Teton County's most sensitive area such as the dry farms on the North end of Teton County and the Teton River wetlands are designated with this 20-acre zoning.
- **Fremont County's proposed ordinances do not require a true cost accounting of development patterns.** Both the 2000 and the 2005 Teton County ordinances obliquely reference the need for a fiscal impact analysis of all proposed developments, echoing nearly identical language to Fremont County's currently proposed ordinance. In order to do a true cost accounting of development patterns, the county must conduct its own survey of the tax revenues and services costs of each development. A failure to consider the fiscal impacts of growth will result in a situation where Fremont County simply does not have the tax revenue to provide basic, essential services to county residents.



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- **Fremont County’s improvement standards permit plats to be recorded prior to infrastructure being complete.** This is what got Teton County into so much trouble; plats were recorded and lots were conveyed prior to any improvements being complete. This divided up the ownership of subdivisions that did not yet exist on the ground and some may never exist on the ground. When these subdivision projects became derailed or went into foreclosure, the end result is a legal “rats’ nest” for both the county and the property owners. Divided ownership in zombie subdivisions is an ongoing problem in situations where development agreements have expired, but developers have not performed on their infrastructure obligations and still have a viable plat. Teton County struggles to determine what “teeth” they have to require completion of these languishing improvements.
- **Fremont County’s proposed PUD densities and open space requirements are weaker than Teton County’s minimum standards.** Teton County’s current PUD ordinance only allows a maximum of 15 units per 100 acres (no bonus for central sewer/water) and 50% open space (70% open space for planned community PUDs). The 2005 PUD ordinance allowed density bonuses of 40-60 units per 100 acres (60-100 units with central sewer/water) and a minimum of 50% open space.
- **Fremont County’s proposed reductions to wetlands and waterways setbacks are significantly smaller than Teton County’s minimum setbacks.** Teton County’s current setbacks are 100 feet from the Teton River, and 50 feet from creeks and streams. Under the old 2005 ordinance, the minimum setback from the Teton River was 75 feet and 50 feet from creeks and streams.

I wholly encourage the Fremont County Commissioners to consider these comments in light of the challenges facing Teton County. Please feel free to contact me at (208) 354-1707 if I can answer any questions or be of any assistance as you continue through this process of updating your development codes. Thank you for the opportunity to submit these comments.

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