

Teton County P&Z Commission
Teton County BoCC
89 North Main Street
Driggs, Idaho 83422

RE: The Proposed Revised PUD Ordinance.

Dear P&Z Commission and Board of County Commissioners,

Good ordinances don't just fall out of the sky. They evolve from a thoughtful, deliberative process, where changes are made in response to shortcomings in previous regulations. When input from a wide cross-section of the community is incorporated into the final product, the resultant ordinance is that much more effective at protecting the whole community's interests.

We think this proposed PUD ordinance is a terrific improvement over the current ordinance. If it were adopted today, the positive changes resulting from this new ordinance would be quite dramatic:

- There would be higher open space thresholds and more meaningful definitions of open space. Community benefit requirements would ensure that the open space is protected in significant, contiguous tracts of land. It would also be compatible with the surrounding uses.
- Open space management plans would include funding guarantees and safeguards so the development does not become a community burden.
- Rural Reserve PUD's would be at least 40 acres, and would only include 15 dwelling units per 100 acres in Ag 20 zoning.
- Developments over 25 lots will have to submit a detailed fiscal analysis, traffic study, and sewage certifications. Developments over 100 units will be reviewed by the technical committee to provide specialized, expert review.

Like any great masterpiece, this is still a work in progress. We therefore respectfully submit the following technical suggestions to help emphasize the strengths of this ordinance, and mitigate its weaknesses:

- **Burdens of proof and maximum densities.** The language of the new PUD should clarify that the maximum housing densities are not guarantees; they are simply the highest potential densities. VARD recommends stipulating this in 9-5-1, accompanied with a statement that in order to get maximum density approval, the applicant carries the burden or proof to show that the benefits of the project outweigh its impacts. This will resolve the debate regarding density entitlements: if you want max density, then prove that it is a good community investment.
- **The Urban Reserve PUD is unnecessary.** In our opinion, the high densities and low open space requirements in the Urban Reserve is a mechanism for placing very high densities in the rural areas of our county. The Urban Reserve area also has the potential to continually expand over time, spreading high density farther and farther away from our cities. Everything written into 9-5-2 is best located in the impact areas

of our cities. Future annexations and city services are also best located in the impact areas of our cities. We respectfully recommend that this type of PUD be eliminated.

- **High densities in the Urban Reserve and Rural Reserve areas.** In the Rural Reserve, there still needs to be density adjustments towards more consistent bonus levels. VARD recommends that the 25% density bonuses be consistent between Ag2.5 and Ag20. Thus, Rural Reserve PUD's should have maximum densities of 50/100 in Ag2.5 and 7/100 in Ag20.
- **Open space should be increased in Rural Reserve.** Our open space is at the heart of Teton Valley. The Rural Reserve open space requirements should be increased from 50% to 70%.
- **Commercial square footage should be reduced.** The proposed PUD ordinance allows for large commercial uses in every type of PUD. VARD recognizes the value of some well-planned incidental commercial uses to reduce county traffic and pollution. We do not however, believe that every development should automatically be accompanied by large commercial spaces. VARD encourages the commission to consider a different system for determining incidental commercial uses.
- **Technical review committees.** The proposed PUD requires several studies to be completed for developments over 25 units, but a review by the technical committee is not mandatory unless the development is over 100 units. Why require all of these complicated studies at >25 units, but not require a technical review until they hit 100 units? VARD recommends that a review by the technical committee be required for every development large enough to require mandatory traffic, fiscal, wildlife, and NP studies. It should also be discretionary for all other developments.
- **More consistent standards for small <5 unit developments up through >25 unit developments.** The proposed small subdivision/PUD ordinance (9-3-2) leaves all requirements up to the discretion of the planning administrator. Conversely, the large subdivision/PUD ordinance (9-3-3) requires several studies for developments over 25 units. The result is a large gap in the requirements and oversight between the 5 unit developments up through the 25 unit developments.
- **County application fees need to be collected up front to help fund diligent review of applications.** The majority of Teton County fees are currently collected at the final plat phase, before recordation.¹ This is problematic because most reviewing costs are incurred at the concept and preliminary phases where most of the critical analysis and design legwork is done. What's worse is when the applicant decides to bail out on a project at the final phase: then the county has essentially done the work for free! The amount of staff and commissioner hours required to thoroughly review applications will also certainly increase with the new mandatory studies and technical review committee requirements in the proposed PUD ordinance. VARD recommends changing the application fee structure to collect the money up front and use it for the

¹ The October 12, 2007 fee chart indicates that only \$265 and \$483 dollars are respectively collected at concept and preliminary plat phases. However, \$483 + \$234 per unit are collected after the final plat phase, and before recordation.

cost of reviewing the applications. The applicants can be reimbursed for decreased lots or abandoned projects.

- **Appropriate billing will also help fund the technical review committee.** It is now recognized that additional studies and review are needed to appropriately evaluate the large influx of development proposals, and this requires many hard hours of work from our county staff and commissioners. The recommended technical review committee would greatly aid in this process, but there is still a fear that it is impossible to fund. In the mean time, more work is heaped on our commissioners and county staff. Here is a solution: in addition to application fees, there are other fees currently in place to charge for the commissioner's time, and the staff/support's time that is used to review extensive applications.² The commissioners and staff need use these fees and appropriately charge for the many hours it takes them to do their due diligence in reviewing these applications. This is not a radical concept: many neighboring counties implement these same kind of structures to obtain independent professional opinions. Blaine County for example, uses their substantial application fees to fund the cost of hiring independent experts to review applications. If the costs become too burdensome, then their ordinances specify that additional consultants may be hired by the county and paid for by the applicant. Madison County also obtains independent, second opinions from experts.
- **Preserving sensitive areas in open space should not be penalized.** Wetlands and floodplains are some of our highest functioning open spaces that should be prioritized for protection, not penalized. Applicants should not be punished for protecting these valuable areas by only getting half credit for the open space. VARD therefore respectfully recommends that 9-5-3(D)(7)(c) be eliminated.
- **The nutrient Pathogen ordinance should stand alone.** While the purpose and intent of the current nutrient-pathogen (NP) ordinance is clear, it has been debated and misconstrued to only apply in wetland areas. The new NP ordinance needs to be so painfully clear that this quixotic debate will finally be put to rest. VARD recommends that the NP requirement section should stand on its own and be removed out of the wetland overlay section. Using clear language and setting each section apart as its own requirement will avoid any confusion as to when an NP study would be required.
- **Community sewer and water systems.** We respectfully disagree with the logic that private water and sewer systems should be permitted but not encouraged. This leaves individual septic systems as the only other option for developers. The cumulative negative impacts of these systems are widely recognized. In neighboring Madison county for example, individual septics are no longer permitted, and developments generating over 2,500 gal/day of effluent must have professionally engineered systems. Developments generating over 25,000 gal/day of effluent must have mechanical treatment systems. There are no easy answers here, but there must be some attractive alternatives to just individual septics and wells. We do however, agree

² The October 12, 2007 fee chart indicates that staff & support may charge \$65 per hour, the P&Z commission may charge \$75 per hour, the BoCC may charge \$45 per hour, and attorney fees may be charged where applicable.

with the requirement to form taxing districts or HOA's with the power to compel dues/fees to ensure that private water and sewage systems are appropriately managed.

- **Multi-family housing is appropriate in our cities and impact areas.** Having affordable housing is indeed a community benefit, but the appropriate location is within our cities and impact areas. VARD therefore recommends that 9-5-2(D)(1) be eliminated.

The best part about writing this letter is the knowledge that the current proposed ordinance is such a tremendous improvement over the current PUD ordinance; every step we take from here just makes it stronger than ever. We at VARD are so grateful for all the hard work you have put into this project. Thank you so much for all of your thoughts and consideration.

Sincerely,

Anna Trentadue
VARD Program Associate