

Think Quality - Think Future

Blount County Planning Department

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TO: Blount County Planning Commission

FROM: John Lamb

DATE: September 17, 2008

SUBJECT: Subject of called work session for 5:00 PM September 25, 2008.

Discussion of cluster development and open space requirements.

This item was briefly discussed at the July and August regular meetings, with request that it be subject of a called work session prior to the September 25 regular meeting. The following is excerpt from staff memo for the July meeting relevant to this discussion.

Consideration of amendment to PUD requirements applicable to cluster PUD developments in the R-2 zone.

Staff has noted practical difficulties in applying density and lot size requirements in the R-2 zone for cluster or Planned Unit Development (PUD) designs. In addition, the introduction of alternative public sewer into the design mix warrants a rethinking of lot size minimums in cluster or PUD designs. The following is presented as analysis and proposal:

- provisions in our Subdivision Regulations that allow density bonus for cluster subdivision,
- related provisions in our zoning regulations in the R-2 zone,
- difficulties in application of the regulations,

- intervening considerations of higher order design elements,
- alternatives to address the situation, and
- proposal for change to the zoning regulations for discussion.

Provisions in Subdivision Regulations and Plans.

It will be instructive to review provisions relating to density and lot size in our Subdivision Regulations and county plans, particularly relating to density bonus for clustering of lots with set aside of land for open space. The Subdivision Regulations were used as a template to formulate applicable zoning regulations. The 1101 growth plan and the Conceptual Land Use Plan also incorporated consideration of density criteria.

Section 6.3(3)(e) of the Subdivision Regulations has two provisions that were commonly applied prior to zoning to subdivision of land in the more mountainous areas of the county. For the most part, such subdivisions were developed on gravel roads. Type II (“Low Density” Development) required tracts of no less than five acres if on private gravel roads. Type III (“Cluster” Development) provided an alternative to Type II development as follows:

Type III (“Cluster” Development) – A Type III development allows for the clustering of building sites and the permanent preservation of significant open space. The preservation of open space is a public benefit, even when the land remains in private ownership. Agricultural preservation, numerous environmental factors, scenic quality, and the preservation of the character of an area are among the items advanced by the conservation of open space. Furthermore, clustered development fosters cost-effective construction and efficient provision of public services.

Type III subdivisions may be developed at an overall density of three acres per dwelling unit, with the stipulation that at least one-half of the gross land area be preserved as open space. The restrictions governing the open space shall be appropriate for each specific development and must be approved by the Planning Commission and referred to on the plat. The

minimum road standards are the same as those set forth for Type II (“Low Density”) Developments.

Note that Type III development gave a density bonus (from one dwelling unit per five acres to one dwelling unit per three acres) in return for setting aside at least one-half of land area for open space. Note also that there was no set minimum lot size indicated, but such lot size was determined by other sections of the Subdivision Regulations (generally now 30,000 square feet if on septic with public utility water, or 35,000 square feet if without utility water).

The above provisions of the Subdivision Regulations were used as a template in formulating zoning regulations for the R-2 zone. In particular, the five acre minimum lot size for Type II developments was chosen as the base minimum lot size for the R-2 zone, with provision that density could be up to one dwelling unit per three acres for Planned Unit Developments with set aside of land for open space consistent with provisions for Type III development.

One dwelling unit per three acre density was also carried over into concurrent discussions on the 1101 growth plan (January 11, 1999 memo to coordinating committee) and incorporated into the Conceptual Land Use Plan (adopted March 23, 2000). The Land Use Plan identified a rural 2 land used category applicable to mountainous areas as follows:

The rural 2 land use category identifies areas in the county where land development is highly constrained by natural factors and infrastructure, and where low density development is expected. The majority of development in the area is expected to be residential at densities less than .33 units per acre, or one unit per three acres on average.

Again, plan provisions were based on provisions in the Subdivision Regulations for Type II and Type III developments. Adoption of the Conceptual Land Use Plan was part of the process of formulating the zoning regulations and provides a plan basis for regulations.

Present Zoning Regulations.

The R-2 zone is specifically applicable to rural areas with expected low density development. As a practical matter, the R-2 zone is predominantly oriented to the mountainous or steeply sloping lands of the county. Low density is defined in the Conceptual Land Use Plan as one dwelling unit per three acres or less, and in application is defined in the R-2 regulations as follows:

F. Minimum Lot Size and Density: unless otherwise explicitly required in subsections above, the minimum lot size per unit for development shall be five acres. For other than one unit per lot, or for planned unit development, the density shall be no greater than 0.2 units per gross acre, provided that density may be up to 0.33 units per gross acre in planned unit developments with a commensurate amount of common openspace permanently set aside and maintained. (Underline added for emphasis)

Note that the base lot size in the zone is five acres, but with design flexibility for planned unit development to a density of .33 units per acre which translates to a density of one unit per three acres. Note also that density and lot size are related, but are not the same. Lot size can define maximum density by setting a minimum lot area, but density is more generally the relationship between dwelling units (not necessarily lots) and land area.

In applying the density requirement to PUD designs, Section 7.3 of the zoning regulations provides guidance on density and minimum lot size as follows:

Section 7.3. Planned Unit Development. The purposes of these provisions for planned unit development are to allow flexibility in design of a large development, and to allow mixed use where such mixed use may be reasonably designed and integrated into a large development. The following shall apply:

...

D. The density, lot size and setback requirements of the district shall apply to any planned unit development, provided

that such requirements may be varied under the following conditions and limitations: the overall required density of development by use is maintained; no lot is less than one-half the minimum applicable lot size by use within the district; setbacks on the perimeter of the planned unit development are maintained at district minimum or greater with no variation; and no principal structure is located nearer than ten feet to any other principal structure if such structures are detached. (underlined for emphasis)

The provision to cluster at a higher density is conditioned on review as a Planned Unit Development (PUD) with set aside of “commensurate” open space. This is consistent with provisions in the Subdivision Regulations for Type III cluster developments with required set aside of one-half of the land for open space and an average density of one unit per three acres. The R-2 zone implies a nominal lot size in cluster development of three acres (.33 units per acre). The PUD provisions allow one half of minimum lot size for clustering, thus application of 1.5 acres minimum area per lot. The application of 1.5 acre minimum lot size to cluster development has most notably been documented in consideration of the Homestead development as a Planned Unit Development in the R-2 zone (staff memo of February 25, 2003).

“Commensurate” open space is not clearly defined in the zoning regulations. However, Subdivision Regulations for Type III development provides a standard of one half of gross development area. With 1.5 acres per lot, this would translate to 1.5 acres of open space per lot on average, thus leading back to the three acre standard and density of .33 units per acre.

Difficulty in Application.

The main difficulty in application of present zoning provisions for PUD in the R-2 zone is the setting of a minimum lot size at one half the applicable minimum in the zone.

If the stated minimum lot size of five acres is used, the minimum lot size in a PUD design would be 2.5 acres. To allow for overall density of one lot per three acres, only 0.5 acres would be left over for open

space. Given that road right-of-ways are not counted in lot area and can account for up to 15 percent of overall land area, the requirement for “commensurate” open space is trivialized. This would not approach the concept of clustering in the precedent Type III subdivisions with one-half of land set aside for open space.

In precedent application to the Homestead development, a nominal lot size of three acres, based on one lot per three acres density, was used as a base, along with Type III provisions for open space set aside as a guide for considering “commensurate” open space. Using this approach, the minimum lot size would be 1.5 acres, with the remainder of the land, 1.5 acres per lot, being considered as “commensurate” open space. Note that the remainder of the land would also include road right-of-way and any other functional set aside not included in the area platted as lots. This method of calculating minimum lot size results in substantial set aside of open space, which was the basis of the provision for density bonus from minimum five acre lots to one unit per three acre density in the Subdivision Regulations.

To recap, the difficulty in application of present zoning regulations in the R-2 zone is the lack of explicitly defined minimum lot size in a PUD design, lack of explicit parameters for “commensurate” open space, and the mathematical difficulties of meeting overall cluster density requirements without assuming at least a minimum lot size of 1.5 acres. Though providing some flexibility in design of cluster development with open space, the present zoning regulations do not match the flexibility in design allowed in the Subdivision Regulations for Type III developments.

Intervening Considerations.

For the most part, Type II and Type III subdivisions were platted in the past on gravel roads, with individual lot by lot septic systems, often with lack of public utility water. Such conditions warranted larger lot sizes. More recent development proposals, most notably Kinzel Springs development, have introduced paved streets, public utility water, and most importantly public utility sewer. Such new conditions may warrant consideration of smaller minimum lot sizes.

The provision of higher level of services addresses some of the concerns about development constraints in the mountains. Particularly, paved roads are generally more stable on slopes, public water addresses concerns about the need for greater lot size for provision of well water, and public sewer addresses concerns about the need for greater lot size to accommodate on-site septic disposal. The provision of paved road, and public utility water and sewer warrant a reconsideration of regulations to allow appropriate flexibility in design of a PUD development in the R-2 zone.

Alternatives for Change.

There are two main alternatives for considering change in our regulations. First would be to create greater design flexibility with provision of higher level of services (roads, water and sewer) by letting lot size vary unrestricted within a PUD, with overall density requirements remaining constant. Second would be to create greater design flexibility by setting a more reasonable minimum lot size with provision of higher level of services. For both alternatives, setting some determinable amount of required “commensurate” open space is needed while maintaining overall density in the zone.

Alternative 1. Under the first alternative, minimum lot size would be practically set by minimum lot size requirements in the Subdivision Regulations, basically 35,000 square feet if on individual septic and well water (about 0.8 acre or greater to meet minimum septic approval standards), 30,000 square feet if on individual septic with public utility water (about .69 acre or greater to meet minimum septic approval standards), or 7,500 square feet if on public water and public utility sewer (about .17 acre). The benefit of this alternative is that it would allow greater flexibility in design. Consideration may be needed for preserving overall character of the low density zone if the smallest lot size of 7,500 square feet is considered, with a larger minimum lot size indicated to keep in character with other rural area development.

Alternative 2. Under the second alternative, some definable minimum lot size would be set. Given that setting a nominal minimum of 1.5 acre has proven difficult in application, a lesser minimum is indicated. For discussion, staff suggests the minimum in the next greater

density R-1 zone which is most commonly 30,000 square feet (0.69 acre), with provision that lot size may be greater as required to meet minimum standards for septic approval. The benefit of this alternative is that a minimum lot size has a floor that is more characteristic of development in rural areas elsewhere in the county.

Open Space. To address required open space, staff suggests that open space be defined exclusive of road right-of-way, and set at a more reasonable minimum of 35 percent of total cluster developed area. This gives a generous accounting of 15 percent of total area in roads, and still meets the intent of providing substantial “commensurate” open space.

Density. Density would remain the same for cluster developments, at .33 units per acre or one unit per three acres.

Proposed Amendment.

For discussion purposes, staff proposes the following amendment based on Alternative 2 above.

That Section 7.3 D be amended to read as follows:

D. Density, lot size and setback requirements.

(1) For other than R-2 zone provisions for development at .33 dwelling units per acre, the density, lot size and setback requirements of the district shall apply to any planned unit development, provided that such requirements may be varied under the following conditions and limitations: the overall required density of development by use is maintained; no subdivided lot is less than one-half the minimum applicable lot size by use within the district; setbacks on the perimeter of the planned unit development are maintained at district minimum or greater with no variation; and no principal structure is located nearer than ten feet to any other principal structure if such structures are detached on an undivided parcel.

(2) For R-2 zone developments allowed at .33 dwelling units per acre and not served by public utility water and/or public utility sewer, or served by private gravel roads, overall density of development

shall be no greater than one dwelling unit per three acres, the minimum subdivided lot size shall be 1.5 acres, a minimum of 35 percent of gross land area for open space shall be provided exclusive of road right-of-way, setbacks on the perimeter of the planned unit development shall be maintained at district minimum or greater with no variation, and no principal structure shall be located nearer than ten feet to any other principal structure if such structures are detached on an undivided parcel.

(3) For R-2 zone developments allowed at .33 dwelling units per acre and served by public utility water and public utility sewer and roads paved to design standards of the Subdivision Regulations, overall density of development shall be no greater than one dwelling unit per three acres, the minimum subdivided lot size shall be 30,000 square feet (0.69 acre), a minimum of 35 percent of open space shall be provided exclusive of road right-of-way, setbacks on the perimeter of the planned unit development shall be maintained at district minimum or greater with no variation, and no principal structure shall be located nearer than ten feet to any other principal structure if such structures are detached on an undivided parcel.

[NOTE that subsection 2 above in effect would require application of Type III development standards for cluster development on private gravel roads as provided in the Subdivision Regulations.]