

**C4-Concerned Citizens for Custer County**  
**“Keeping Custer County Special”**  
**PO Box 862**  
**Westcliffe, Colorado 81252**

Custer County Commissioners  
 PO Box 150  
 Westcliffe, Co. 81252

SUBJECT: Cluster Development (CD) Position Paper

26 November 2007

1. **Problem/Observation:** To understand Cluster Development, determine the impacts to Custer County and define a C4 position.

2. **Points to consider:**

- Current Colorado law allows 35-acre or larger rural residential development without any county involvement.
- CD provides an alternative to traditional 35-acre development which does allow County involvement.
- State law (C.R.S. 30-28-403) exempts CDs from subdivision regulations if at least two thirds (2/3) of the total tract remains undeveloped (open space) for at least 40 years. Counties may require more open space (70-80%).
- An adopted and implemented County Rural Land Use Process is required by the State before a CD can occur.
- Two counties (Larimer and Routt) have used CD to encourage alternative developments that help retain rural and agricultural lands. Routt and Larimer experience:
  - CDs were proposed as a way to maintain historical land property values while preserving open space and controlling increasing demands for county services (tax payer’s burden).
  - Additional fees are assessed to cover the land review process, county planners’ time and increased county staff.
  - Incentives may be provided for developments that meet county goals and objectives, e.g., bonus parcels and accelerated planning review and approval. Increased housing density (up to twice the number of homes as a 35 acre development) is allowed by state law.
  - Land values for the clustered properties (5-7 acres) have been comparable to the larger 35 acre parcels in Routt County.
- Although residential property generates more property tax revenue than range and crop lands, the net county costs increase due to residential property. Residential property requires \$1.30 in community services for every \$1.00 of tax revenue generated. (See CSU report May 2003-APR 03-03)
- No additional water rights are gained through the CD process; water use is limited to one acre-foot for each full 35 acres in the total tract. No more than one well permit per parcel.
- The State Engineers Office (SEO) will “evaluate” well permits for household and outside use for the CD before issuing any new well permits. Permit approvals are not automatic.
- Currently there is no shortage of open space in Custer County; approx 2/3 of parcels have no homes.

3. **Decision criteria and analysis table:** **stplight colors:** red=negative; green=positive; amber=caution



**Key CD Decision Criteria:**

Water demand	Amber--Limited by well permit; increases w/density
Home/population density (zones 1 & 2)	Red--Potential doubling
Home/population density (zones 3 & 4)	Green--decrease
County employee staff, supervision & budget	Red--Increases--New Rural Land Use Process
Open space preservation	Green--At least 2/3 remains open
Demands on county infrastructure *	Amber--Can be minimized by Rural Land Use Process
Development related job/economic increase	Green--New single residence homes
Environmental impacts **	Amber--Residential sites tailored to specific characteristics of the property

\* infrastructure includes increases in County staff and supervision requirements; road use; sewer systems; county services like schools, health clinic, fire and sheriff departments; etc.

\*\* includes water filtration, erosion, drainage, increased weed growth, wildlife impacts, noise and light pollution, etc.

#### 4. **Discussion:**

##### a. **Cons:**

- The County must implement a new Rural Land Use Process that meets the State requirements before approving any CD plan. A rural land use process that meets Custer County goals may take several years to develop and require additional planning staff to implement. The development of a new process is cost effective only when multiple requests for new subdivisions are processed by the County each year.
- Only 2 counties in Colorado have “successfully” used a form of CD. Both Larimer and Routt Counties have severe growth pressure and needed a way to manage the sprawl of 35-acre subdivisions. Custer County is not experiencing this type of growth.
- The Larimer and Routt charge fees for their land planners’ time to offset the costs of reviews. Even with CDs the growth of rural residential development is not “paying its way”.
- There are additional costs to the county to ensure development rights are transferred and monitored for at least 40 years.
- Additional reviews/permits may be needed to ensure water is available to support the development and meters may be required to ensure water use is appropriate.
- The Colorado State Attorney General Office has rendered a decision that indicates watering of domestic animals such as horses in the CD open space may not be allowed. The watering restriction in open space has the potential discourage CD proposals.

##### b. **Pros:**

- Kim Headley, Director, Planning and Development Pueblo, recommended Custer County consider CD as an option to the 35-acre exempt subdivision process.
- Site planning for CD permits better residential use of land that is tailored to the specific characteristics of the property than under traditional 35-acre developments which the County cannot influence due to state law.
- The Rural Land Use Process provides more consistency across planning reviews than special use permits or waiver decisions. It can be used to control/reduce the cost of county services in new development. The process also allows incentives for development that follows the county rural land use guidelines or objectives.
- Land owners can keep more of the original parcel intact for agricultural use or for conservation easement tax credits.
- Land owners have voluntarily used cluster development where it is available in place of 35-acre subdivisions even when the full benefit allowed by state law was not offered.

5. **C4 position:** Proceed with caution for zones 3 & 4 only. Cluster development could be carefully planned and used by the County to meet specified planning objectives. Although the current growth activity can be handled by individual reviews, CD could be a useful tool for the future in land use planning. CD is potentially applicable only in zones 3 & 4 (5 and 10 acre parcels), not zones 1& 2. Although the idea has merit it may be premature in Custer County. The County has considerable undeveloped land available at present. Before the County makes a final decision on the need for CDs, the following actions are recommended:

- Identify parcels that are eligible in Zones 3 & 4 for potential CD to understand the potential scope/impact.
- Write and implement a well developed Rural Land Use Process modeled after documents available from the Colorado Office of Smart Growth and Larimer County’s Land Use Code.
- Do more research to understand the potential impacts of the State Attorney General’s position regarding water use in CD open space relating to domestic animals and livestock.

FOR THE C4 MEMBERSHIP AND BOARD:

Joe Arbuckle  
C4 Chairman

cf: Planning Commission