

Pagosa Springs Planning Commission
Meeting Minutes – August 26, 2008

DRAFT

I. Call to Order / Roll Call

The Planning Commission meeting was called to order by Chairman Tracy Bunning. Commissioners Herzog, Hart, Lattin and Woodruff were present. Staff Nigg was present.

II. Announcements

III. Consent Agenda

A. Approval of the August 12, 2008 meeting minutes – Cmmr. Hart motioned to approve the August 12, 2008 meeting minutes. Cmmr. Herzog seconded the motion. The motion was unanimously approved. Cmmr. Lattin and Cmmr. Woodruff abstained from voting.

IV. Design Review Board

A. 358 East Pagosa Street, Exterior Alteration – Staff introduced the request by the applicant, John E. Brown, to review proposed exterior alterations at 358 East Pagosa Street. Staff stated the applicant would like to paint the building using a blue, yellow and white color palette. Staff stated the metal roofing would be re-finished in blue (evening blue), the base color yellow (bright yellow) and white trim. Staff cited the following LUDC sections and D-3 District Design Guidelines: Section 21.6.3(3)(iii)(1) states bright colors should be used for accents and decorative details such as windows, storefronts and entrances. Section 21.6.3(3)(iii) states attention must be paid to the use of color on buildings, as it affects the visual aesthetics of the Town. Staff continued to explain the base color (bright yellow) and roofing color (evening blue) were aggressive shades of blue and yellow and were not compatible with the intent of the design guidelines. Staff recommended denial of the alteration request as proposed. Cmmr. Herzog stated the proposed colors were loud and bright and did not respect the adjacent properties. Cmmr. Lattin agreed that the proposed colors were bright and did not meet the design guidelines for this district. Chairman Bunning stated a white base color and yellow trim may be more appropriate. Cmmr. Woodruff referenced a structure in Gem Village with a light yellow base color that was not attractive. Chairman Bunning opened the agenda item for comment. No comment was received. Chairman Bunning closed the item for comment. Cmmr. Woodruff motioned to deny the exterior alteration request as proposed due to the color palette not meeting the intent of the LUDC and D-3 District Design Guidelines. The motion was unanimously approved.

V. Planning Commission

A. Blue Sky Village Sketch/Preliminary Plan – Staff introduced the request by the applicant, Prime Property Investment of Colorado, LLC, to review the concurrent sketch/preliminary subdivision consisting of 96 acres, located on Highway 84. Staff stated as proposed the project includes 40 single family residential lots, 12 multi-family residential tracts, two (2) commercial tracts comprising 16 acres and approximately 19 acres of open space. Staff stated the Planning Commission reviewed this project at the August 12, 2008 meeting and continued the request until the applicant could provide additional information depicting densities by parcel and transitions through the development. Staff stated information was included in the Planning Commission's packets depicting density by parcel, as submitted by the applicant. For background

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purposes, staff stated in December of 2007 the applicant submitted a request to modify the Comprehensive Plan from 'Rural Residential' to 'Mixed-Use Residential' and 'Town Residential-Low (6du/acre)'. Staff stated the Planning Commission recommended approval of the 'Mixed-Use Residential' category (western 48 acres) with the balance of the property remaining as 'Rural Residential' to respect acreage transitions into adjacent properties. Staff continued to explain that Town Council approved the Comprehensive Plan amendment as recommended by the Planning Commission at the January 2, 2008 meeting. Staff stated the revised submittal reduced the number of units within the multi-family parcels from 330 to 314. Staff stated based on these numbers the proposal was not consistent with the densities as established in the Comprehensive Plan for the 'Rural Residential' classification. Staff noted, as submitted, the western 48 acres is consistent with the intent of the Comprehensive Plan and the 'Mixed-Use Residential' classification. Staff requested direction from the Planning Commission regarding the number of access points into Blue Sky Village. Staff stated per the LUDC the developer is required to provide no less than two (2) street right-of-way accessing any subdivision. Staff stated the project, as proposed, includes a signalized intersection onto Hwy 84 and an emergency crash gate onto Tierra del Oro Drive. Project representative, Nancy Lauro, stated the density figures provided in the staff report were not accurate for the eastern 48 acres and provided the Planning Commission with additional hand-outs. Lauro stated the number of units within the 'Rural Residential' category was approximately double the recommended density within the Comprehensive Plan. Lauro stated regulations are regulations and the Comprehensive Plan is not a governing document. Lauro explained the Comprehensive Plan has a myriad of policies and the Blue Sky Village development meets the intent of the Comprehensive Plan. Lauro stated shifting a majority of the density to the western 48 acres was not an appropriate transition. Lauro noted views from the Blue Sky Village property were north/east and properties in Tierra del Oro would not be able to view this subdivision based on topography. Lauro questioned whether 5 acre lots adjacent to the Tierra del Oro subdivision were appropriate and stated fences could be directly adjacent if the Planning Commission strictly followed the Comprehensive Plan. Lauro stated the proposed plan includes an open space buffer directly adjacent to Tierra del Oro subdivision. Lauro noted the development does not maximize density under the 'Mixed-Use Residential' comprehensive plan classification and does everything the Comprehensive Plan begs for. Staff stated densities within the 'Mixed-Use Residential' category were unknown as the project, as submitted, did not specify densities in this area outside of the multi-family units subtracted from the 'Rural Residential' classification. Lauro stated attainable and potentially affordable housing would be provided on-site. Lauro concluded by stating the Comprehensive Plan should not be taken that literal. Cmmr. Lattin stated the direction given to the applicant during the Comprehensive Plan amendment process included clustered development and appropriate density transitions. Cmmr. Lattin stated the densities appeared to be excessive on the eastern portion of the property. Staff addressed the density statements made by the applicant and agreed the number may not be completely accurate based on the hand-outs distributed to the Planning Commission, but reiterated that the staff report is based on the available information submitted with the application. Staff stated strictly based on the land uses and densities proposed on the preliminary plat the project is well outside the intent of the Comprehensive Plan. Staff stated the 'Rural Residential' category defined a density that can range from 1 unit per 5 acres to 1 unit per acre, depending on the amount of land set aside as open space, with a minimum open space dedication of 20%. Staff stated within the eastern 48 acres the project includes approximately 7.5 acres of open space thereby a density in the range of 1 unit per 5 acres would be allowed under Comprehensive Plan recommendations. Staff continued to explain if the 20 acres of open

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space for the entire project was applied to the eastern 48 acres the developer would reach an open space percentage of 41% and a density of 1 unit per 3 acres. Lauro reminded the Planning Commission that this project concept was brought before the Town Council and endorsed. Lauro reiterated that 5 acre tracts abutting 35 acre tracts was not appropriate. Cmmr. Herzog stated this project should be located within Town boundaries and noted the annexation was forwarded to Town Council for approval. Cmmr. Herzog stated he walked the property and there is not a definitive east/west separation as shown in the Comprehensive Plan. Cmmr. Herzog stated topography buffers the adjacent subdivision and directing project density towards Hwy 84 does not accomplish anything for the Tierra del Oro subdivision other than having them leave the meeting with a good feeling. Staff stated the applicant has submitted revisions as requested by the Planning Commission and encouraged the commission to focus on whether appropriate density transitions were represented in the preliminary plat. Cmmr. Herzog questioned whether sprawl and land use patterns utilized for the past 30 years in Archuleta County was appropriate or placing urban densities in areas close to Town. Chairman Bunning stated the mixed-use concept as presented during the Comprehensive Plan amendment process was endorsed but the remainder of the property was left as 'Rural Residential' with the understanding that the Planning Commission would re-visit this designation in the future. Chairman Bunning stated the 'Rural Residential' designation was not necessarily meant to remain, was not deemed the correct category and was tabled by the Planning Commission until a future time when additional information was available. Cmmr. Woodruff stated the Comprehensive Plan amendment request was made by the applicant and the decision was to keep the eastern 48 acres as 'Rural Residential'. Cmmr. Woodruff stated the amount of open space adjacent to the Tierra del Oro subdivision and density transitions in this area were not adequate. Lauro reiterated that topography separates Blue Sky Village from the Tierra del Oro subdivision. Lauro stated that individuals with 5 acre parcels might have dogs, horses and fences which would abut Tierra del Oro subdivision and suggested a covenant controlled community is a more appropriate transition. Lauro questioned the Planning Commission on whether staff forwarded correspondence from project consultants (Sugnet & Moore Environmental, Inc.) in response to comments submitted by the Army Corps of Engineers. The Planning Commission concurred they had not seen the response. Lauro stated the letter was forwarded to staff a week and a half ago. Lauro continued to explain the traffic study as submitted was not an issue as the applicant recognizes land uses have changed. Lauro suggested ADT counts would be less when the traffic study was revised. Lauro addressed staff's previous request for direction on the number of access points into a subdivision. Lauro stated the Planning Commission can make interpretations on code language and suggested a separated median is allowed in other communities to address emergency access concerns. Project representative, Carl Valldejuli, presented a brief powerpoint discussion highlighting the amount of open space abutting Tierra del Oro subdivision and tree phasing techniques to increase buffering along this boundary. Cmmr. Hart questioned whether a one (1) acre lot existed in the Tierra del Oro subdivision. Valldejuli stated he was not aware of a one (1) acre parcel. Valldejuli continued to explain the development would spend ¼ million on buffering and the open space along this boundary was located on steep slopes. Valldejuli discussed the review process for this project and the modifications to the plan that were made. Valldejuli stated the project had been morphed numerous times to address various issues. Staff stated the comments in the staff report in reference to the traffic study merely reflect the inaccuracies within the report. Staff stated if the Planning Commission reviews the alternative actions, under recommendation for approval No. 5, the recommendation requests the applicant to address the inaccuracies and submit verification CDOT has accepted the revised traffic

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study. Staff stated the response letter from the environmental consultants (Sugnet & Moore Environmental, Inc.) dated August 16, 2008 was received on Monday August 25th and therefore was not included in the packets. Chairman Bunning opened the public hearing for comment. William Cohen stated he represented a property owner in Tierra del Oro subdivision and had no personal interest in the development. Cohen stated he was in front of the Planning Commission for procedural reasons and continued by citing a statement from the Comprehensive Plan located on Page 5-1 (which was also referenced in the August 26, 2008 staff report). Cohen referenced the Town of Pagosa Springs Home Rule Charter and Section 12.16 pertaining to Conflicts of Interest. Cohen stated under this section council members shall not participate in discussion or deliberation on any question in which he or she has a substantial personal or financial interest. Cohen continued to explain the requirements when an individual must recuse themselves from a vote and noted he did not want to make any enemies with his statements. Cohen stated Cmmr. Hart's participation in this development raises the appearance of impropriety. Cohen stated he visited the Hart Construction website and noted Cmmr. Hart's picture was on the website and that his family owned a construction and contracting business. Cohen stated Cmmr. Hart should recuse himself from voting on any item pertaining to Blue Sky Village, Blue Sky Ranch, Carl Valldejuli, Sam McRoberts or Prime Property Investments of Colorado. Chairman Bunning asked Cmmr. Hart whether he has had any discussions with any principals involved in this project. Cmmr. Hart stated he has not discussed the project with any principals and noted he has only seen the project information as presented in the Planning Commission packets. Cmmr. Hart questioned whether Cohen's reasoning would apply to Cmmr. Woodruff as she works in the construction loan business. Chairman Bunning stated that based on appearance of impropriety he could recuse himself because he could have title work from this development in the future; however, at this point he has no contracts with the applicant. Cmmr. Woodruff stated a future benefit from the project, as presented by Cohen is far reaching, at best. Staff stated information has been previously prepared by town legal counsel regarding conflicts of interest and is easily accessible. Staff stated conflicts of interest are typically tied to a direct financial benefit. Cmmr. Hart reminded the Planning Commission he recused himself from the Mesa Heights Replat decision a few months ago because he reviewed the construction plans. Cohen stated the appearance of a conflict of interest is present. Deborah Jacob stated she was a property owner in Tierra del Oro subdivision and noted the POA was not anti-development and actually more pro-development. Jacob stated the proposed development would be valuable to the community but reiterated density transition issues and concerns regarding the construction of multi-family dwellings in this area. Jacob stated the subject property was visible from windows in her home and noted the proposed buffer was negligible. Jacob stated numerous property owners in Tierra del Oro have large financial investments in their property and without adequate transitions they may realize reduced property values. Steve Cangioli stated he is not involved in the project and questioned where development will occur if the Town does not allow it on this property. Cangioli stated Carl Valldejuli has done good job planning the property and this development should only add value to properties along Hwy 84. Cangioli stated the commercial and pedestrian friendly design was appropriate in this location and noted affordable housing was an important amenity the development provided. Ernie Amos, Tierra del Oro POA president, stated the development was close to something acceptable and requested the Planning Commission look for a density compromise in the area near their shared property boundary. An un-identified individual stated 35 acre parcels should probably not be close to town and further noted private property rights should be respected as long as development doesn't seriously impact adjacent properties. Cmmr. Hart questioned

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whether a one (1) acre tract existed in Tierra del Oro subdivision. Deborah Jacob stated the developer of Tierra del Oro subdivision could not purchase this property prior to subdivision; therefore, there is a one (1) acre parcel but not actually within the Tierra del Oro subdivision. Cmmr. Hart questioned why the Tierra del Oro POA had not presented or requested certain densities. Ernie Amos stated Tierra del Oro supported the 'Rural Residential' classification as identified in the Comprehensive Plan. Amos noted they have previously met with Lauro to discuss the development. Valldejuli stated infrastructure costs for the project will reach 22.7 million and this has to be supported by density. Valldejuli stated affordable and attainable housing would be provided in the southwest corner of the property and the project build-out was anticipated at 20-25 years. Bob Hart stated the applicant has developed a good plan which meets the needs of the Town and will only benefit the Town. Hart stated that it is only right that the applicant be allowed to proceed. Chairman Bunning closed the public hearing for comment. Staff stated the Planning Commission should determine whether the densities by parcel as proposed by the applicant are acceptable and requested direction on access points into the development. Cmmr. Woodruff stated the Planning Commission has allowed one access point in other developments and noted Blue Sky Village would have hundreds of units compared to previous projects. Chairman Bunning stated he was not concerned with one access point into the development and a crash gate onto Tierra del Oro drive. Cmmr. Herzog requested staff to explain why two (2) access points were necessary. Staff stated the code included this language for a number of reasons which includes: emergency situations, traffic circulation and connectivity to adjacent properties. Cmmr. Hart stated Tierra del Oro property owners would not want additional traffic on their road. Lauro concurred and referenced three property owners: Marvin Lord, Troy Dunham and Troy Ross who did not want this access open to Blue Sky Village traffic. Cmmr. Lattin asked if the developer is required to improve the surface to the location of the crash gate. Staff stated, based on the submitted plans, the developer would need to relocate the traveled surface of Tierra del Oro drive but would not pave the surface. Valldejuli stated the applicant would improve the surface with pavement and referenced the preliminary plat. Staff stated the plat note in regards to this segment of roadway states 'to be relocated' and does not identify any improvements. Valldejuli stated CDOT would only allow one access point and noted this was not an opinion. Lauro stated CDOT has control over this access point and noted they would make the final decision. Cmmr. Herzog stated topography provides a buffer to the adjacent development and referenced a study completed by the Urban Land Institute that identifies density as a myth that reduces property values. Cmmr. Herzog stated a one (1) dwelling unit per 35 acres is not a sustainable land plan and reiterated that he did not want to replicate the past 30 years of land use in this county. Cmmr. Lattin noted the project would not be built-out over the next two years and rather the next 20-25 years. Valldejuli stated this project was designed as a live/work/play development. Cmmr. Woodruff stated the density transition in the southeast portion of the property was not adequate. Cmmr. Herzog questioned whether the 'Rural Residential' Comprehensive Plan designation was consistent with the development and the B-1 zone district designation forwarded to Council with the annexation. Cmmr. Herzog suggested that the Comprehensive Plan should be modified to reflect something similar to the 'Mixed-Use Residential' category on the entire property. Staff stated at this point the Planning Commission has requested information on the densities within the multi-family parcels and has endorsed the concept of the development. Staff stated the Comprehensive Plan is a tool to guide development and should not necessarily be modified after the fact. Cmmr. Herzog motioned to approve the concurrent sketch/preliminary plan as proposed by the applicant contingent upon the following: (1) dedicate a pedestrian access easement no less than twenty (20) feet in

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width in an appropriate area parallel to Hwy 84 or parallel to the alignment of Blue Sky Village Circle, to be constructed concurrently with Phase I infrastructure improvements; (2) pay land dedication in lieu fee based on the amount of land that otherwise would be required to be dedicated (8%, LUDC), less any reductions or deductions for acreage associated with the trail easement dedication; (3) address issues as identified by the Army Corps of Engineers and submit verification the Corps will allow the development to proceed; (4) relocate the traveled surface of Tierra del Oro Drive into the appropriate right-of-way prior to final plat recordation; (5) initiate the inclusion process into the sanitation district and submit construction plans to the District Engineer for review and approval concurrent with final plan submittal; (6) pay PAWSD subdivision review fees; (7) address plat issues per staff's comments and any comments submitted by the County Surveyor; and (8) address inconsistencies within codes & covenants per staff's comments. Cmmr. Hart seconded the motion. The motion was approved with Chairman Bunning, Cmmr. Hart, Cmmr. Herzog and Cmmr. Lattin voting in favor. Cmmr. Woodruff in opposition.

VI. Reports and Comments

- A. Staff** – Next meeting September 9, 2008 @ 5:00 p.m.

Minutes approved: _____
Chairman Tracy Bunning