

Pagosa Springs Planning Commission

Meeting Minutes – August 12, 2008

I. Call to Order / Roll Call

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

II. Announcements

III. Consent Agenda

A. Approval of the July 22, 2008 meeting minutes – Cmmr. Hart motioned to approve the July 22, 2008 meeting minutes. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

IV. Design Review Board

V. Planning Commission

A. Blue Sky Village Annexation & Zoning – Staff introduced the request by the applicant, Prime Property Investment of Colorado, LLC, to review the proposed annexation that includes seven (7) tracts of property comprising six (6) right-of-way tracts held under Colorado Department of Transportation ownership and an approximate 96 acre tract known as Blue Sky Village. Staff stated the proposed annexation is identified as a ‘serial flagpole annexation’ as right-of-way will be annexed and used to establish the required contiguity otherwise not directly contiguous with the town’s boundary. Staff noted on June 19, 2008 the Town Council determined the annexation petition was in substantial compliance with the municipal annexation act and additionally approved Resolution No. 2008-19 at the August 5, 2008 meeting which verified eligibility to annex the property pursuant to state statutes. Staff stated per land use code Section 21.10.11(j) the applicant is required to complete an annexation assessment report which identifies the effects of the proposed annexation on the community and existing services and facilities. Staff continued to explain Section 21.10.11(j)(2) states the applicant shall adequately address the economic impact to the municipality including an analysis of short-term and long-term municipal revenues likely to be generated by the development, short-term and long-term municipal expenses likely to be incurred as a result of the annexation and development, and proposals to mitigate any negative impacts. Staff stated the submitted economic and fiscal analysis (completed in 2006) was specifically applied to Archuleta County in regards to property tax revenues, sales tax revenue, overall revenue and departmental service cost derivation. Staff noted the fiscal analysis was based on the assumption of a five (5) year build-out, when in fact the anticipated build-out is over a 15-20 year period. Staff additionally stated the report was based on project development assumptions (units & commercial square footage) that were not consistent with the proposed development. Staff stated the recommendation outlined in the staff report requested the applicant complete an economic/fiscal report in relation to impacts on the Town of Pagosa Springs in order for the Council to make an informed decision on this annexation. Chairman Bunning requested comments from the applicant. Project representative, Nancy Lauro stated the developer originally submitted a development plan to the Town in 2004. Lauro stated the applicant has survived multiple staff’s and a changing regulatory environment. Lauro noted the project has been revised to address the regulations in place today; however, the economic/fiscal report was not prepared in relation to impacts on the Town. Lauro continued to explain the commercial

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aspect of the project would produce a positive fiscal impact on the Town. Lauro stated the report was completed in a good faith effort for a similar design and suggested a revised analysis would produce similar results. Lauro stated a revised report should not inform a decision on the project any more than the current analysis. Staff stated the number of proposed dwelling units and commercial square footage within the report is very different from the development proposal and based on the other inaccurate information previously noted the required economic/fiscal impact as prepared, does not meet LUDC requirements. Cmmr. Herzog stated additional and accurate information would be helpful in making an informed recommendation on this project. Lauro stated the marginal cost for the increase in dwelling units would be the same and costs to general funds should translate. Lauro reiterated that the report included enough information to show a positive fiscal impact. Staff stated for background, in December of 2007, the applicant submitted a request to modify the Comprehensive Plan and Future Land Use Plan from 'Rural Residential' to 'Mixed-Use Residential' and 'Town Residential Low'. Staff explained the Planning Commission recommended approval of the 'Mixed-Use Residential' (western 48 acres) with the balance of the property remaining as 'Rural Residential' to respect acreage transitions into adjacent properties. Staff stated Town Council approved the Comprehensive Plan amendment as recommended by the Planning Commission at the January 2, 2008 meeting. Staff explained the 'Rural Residential' classification within the Comprehensive Plan established a density that can range from 1 unit per 5 acres up to 1 unit per acre, depending on the amount of land set aside as open space. Staff stated this designation recommends clustered arrangements of housing units and is specifically intended to provide a transition between Town neighborhoods and surrounding County agricultural areas. Staff noted primary uses within the 'Rural Residential' classification include detached single family residences and secondary uses are defined as complementary uses including open space, recreation, accessory structures, barns or stables. Staff continued to explain the 'Mixed-Use Residential' classification is intended to promote self-supporting neighborhoods which contain housing predominantly. Staff noted this category allows commercial development on up to 30% of the property acreage; however, commercial components shall be less than 4,000 square feet (per building) and should be comprised of small retail, offices and light trade. Staff stated established densities for the 'Mixed-Use Residential' category include 16 units per acre for residential development and an FAR of 0.5 for mixed-use/commercial development. Staff stated the applicant has submitted a zoning request that identifies a portion of the western 48 acres as D-3 District, Corridor Business; the northern portion of the property as A-District, Single Family Residential; and the remaining acreage as B-1 District, Multiple-Use Residential. Staff stated a portion of the requested B-1 District, Multiple-Use Residential is located within the eastern 48 acres of the property designated as 'Rural Residential'. Staff stated the applicant has requested the B-1 District to enable the construction of multi-family dwelling units which are otherwise not a permitted use within the A-District. Staff stated based on this information three (3) alternatives were included in the staff report for the Planning Commissions consideration, with the staff recommendation requesting that the applicant revise the proposed zone district from B-1 Multiple-Use Residential to A-District Single-Family Residential in areas identified in the Comprehensive Plan as 'Rural Residential', with the inclusion of language in the annexation agreement specifically allowing multi-family development under the density parameters as established in the 'Rural Residential' designation. Cmmr. Hart questioned whether the B-1 District can be implemented and modified at a later date. Staff stated the A-District is the most compatible zone district currently in the land use code and further noted the implementation and conversion from the B-1 District to a new land use category (forthcoming in new code) may be complicated and potentially

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controversial. Lauro stated the portion of identified as B-1 District and located in the 'Rural Residential' classification was buffered by significant vegetation and topography. Lauro stated the applicant would not maximize the allowed density in the B-1 District and further noted the allowance of multi-family development in the A-District may not be feasible. Cmmr. Herzog questioned whether attainable and affordable housing would be included in this area of the proposal. Lauro stated the developer has not committed to anything at this point, but suggested attainable housing would be implemented to some degree. Lauro stated the applicant believes the overall land use plan for this development is compatible with the Comprehensive Plan. Staff acknowledged topography and existing vegetation will provide buffers into the Tierra del Oro Subdivision. Staff noted proposed densities within this area were not consistent with the Comprehensive Plan. Chairman Bunning questioned whether alternative uses within the A-District was permissible. Staff stated this issue can be clarified with Town legal counsel. Project representative, Carl Valldejuli stated the preliminary plat reduced the density within this area to 8 du/acre. Staff stated a net density of 8 du/acre was not consistent with the Comprehensive Plan. Staff noted during the comprehensive amendment process the 'Residential Transition' (max. 2du/acre) and 'Town Residential Low' (max. 6 du/acre) were discussed and the Planning Commission ultimately decided the 'Rural Residential' (1 du/ 5acres up to 1du/acre) was appropriate for the eastern 48 acres of this development. Staff noted the Town Council upheld this recommendation at the January 2, 2008 meeting. Lauro stated the applicant would like to see the Planning Commission recommend approval and allow Town Council to make the final decision on whether this property should be annexed. Staff concluded by recommending that the Planning Commission continue consideration of the request until the applicant can modify the annexation assessment to reflect applicable information in relation to impacts on the Town. Chairman Bunning opened the public hearing for comment. Ernie Amos acknowledged that the developer had spent time working with the Tierra del Oro Home Owner's Association on appropriate transitions into the 35 acre parcels. Amos stated the plans presented to the HOA did not include significant density on the eastern 48 acres and included open space. Amos stated the densities as discussed did not represent the Comprehensive Plan vision that the property owners in this area endorsed. Amos continued to explain that based on the current Comprehensive Plan category the developer should only be allowed the ability to construct 48 residential units and further noted multi-family units were not an appropriate transition. Amos stated a density between 6-8 du/acre was too intense and would like to see a density that is somewhat compatible with the Comprehensive Plan. Bill Hudson stated the Town is struggling with a lack of affordable housing and questioned whether the developer would provide any attainable/affordable housing. Hudson stated multi-family is a good option for producing affordable residential units. Bob Hart stated the Planning Commission should look at the overall project, not specific areas, and determine whether the development meets the community's vision. Valldejuli stated the developer was attempting to provide smooth transitions between Comprehensive Plan categories and implement appropriate zone districts. Staff stated the Planning Commission should provide direction on the proposed zone districts and whether the submitted annexation assessment is acceptable. Cmmr. Hart questioned whether the A-District will meet the developer needs. Staff stated the A-District has a maximum allowed density of 5.8 du/acre and does not allow the construction of multi-family units. Chairman Bunning stated the Planning Commission does not want to be perceived as a hurdle in the development process but noted the specific decision of the Planning Commission during the Comprehensive Plan amendment process was a maximum density of 1 unit per acre in this area. Chairman Bunning continued to explain additional clustering of units would be appropriate and a density of 8 du/acre was too dense. Cmmr. Herzog recollected previous

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Planning Commission meetings were a density transition into Tierra del Oro was discussed. Cmmr. Herzog stated a more appropriate transition into the 'Rural Residential' designation and adjacent subdivision was needed. Chairman Bunning stated the Planning Commission ultimately needed to resolve the zone district issue and suggested tabling the item until discussion of the subdivision agenda item. Chairman Bunning closed the agenda item for comment. Cmmr. Herzog motioned to table the agenda item until presentation of agenda item B. Cmmr. Hart seconded the motion. The motion was unanimously approved.

B. Blue Sky Village Subdivision – 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 south of the County Extension Building and north of the County Road & Bridge facilities. 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 noted the project is proposed as a two (2) phase development. Staff stated the development plans indicate a total of 330 multi-family units will be constructed, not including units within the D-3 District commercial zone district. Staff stated including the 40 single-family residential lots the 48 acres identified as 'Rural Residential' totals 249 residential units (209 of the 330 multi-family units) or a gross density of 5.19 units per acre. Staff noted that the 'Rural Residential' category defines a density that can range from 1 unit per 5 acres to 1 unit per acre with a minimum open space requirement of 20%. Staff stated within the eastern 48 acres approximately 7.34 acres of open space was provided. Staff stated based on the amount of open space the applicant would meet the 1 unit per 5 acre density range. Staff continued to explain if the entire 19.6 acres of open space was applied towards the open space requirements within the 'Rural Residential' designation to determine the approximate density range; the percentage of open space would equal 41% and a density range of 1 unit per 3 acres. Staff summarized and stated the overall densities within the 48 acres identified as 'Rural Residential' are not consistent with the intent of the Comprehensive Plan. Staff stated the remaining 120 multi-family units would be constructed in the 'Mixed-Use Residential' classification which allowed the developer 16 du/acre or a maximum total of 538 residential units. Staff stated as submitted, the western 48 acres is consistent with the intent of the Comprehensive Plan and the 'Mixed-Use Residential' classification. Staff stated the second major concern was in regards to comments received by the Army Corps of Engineers. Staff stated the letter addressed a variety of minor issues and violations but noted the applicant needs to demonstrate that 'the project is the least environmentally damaging practical alternative'; alternatives which may include no discharged material into the delineated wetland or review of other parcels for development. Staff continued to explain, according to the Army Corps of Engineers, that the applicant had 'dug extensive ditches and discharged side-cast material' into the wetland without authorization which is a direct violation of Section 404 of the Clean Water Act. Staff stated in speaking directly with the Army Corps of Engineers it was clearly stated the Town should not proceed with review of this project until the Corps determines the project is the least environmentally damaging alternative, which requires the applicant to complete supplemental studies/analysis before the Corps determines development on the property is permitted. Staff proceeded to outline issues with the submitted traffic study. Staff stated the submitted traffic study was based on a total of 189 residential units and 20 acres of commercial development. Staff noted the proposed development includes 371 residential units which does not include an unspecified number (max. 538 units) of residential units that may be constructed within the 'Mixed-Use Residential' classification. Staff stated

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based on the difference in development numbers the estimated ADT count was not accurately reflected. Staff stated impacts on the Hwy 160/Hwy 84 and Hwy 84/Light Plant Road intersections were not considered in the study and further noted the access permits appeared to be invalid based on the density modifications. Staff stated a variety of other minor issues were outlined in the staff report. Staff stated one (1) letter of concern was received and distributed to the Planning Commission citing density and wetlands as primary issues. Staff recommended denial of the Blue Sky Village Subdivision due to the request not meeting the intent of the Comprehensive Plan in regards to densities within the 'Rural Residential' classification and other unresolved issues as identified in the staff report. Staff noted if a plat is denied by the Town Council, a re-submittal that is substantially similar may not be heard by the Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Planning Commission. Cmmr. Herzog questioned whether the developer would be required to connect to the Town's sanitation service. Staff stated the developer would need to complete the inclusion process into the District. Project representative, Nancy Lauro, stated the developer appreciates the Army Corps of Engineers comments and concerns but suggested the wetland on the property was not a fen wetland and a complete wetland delineation would be completed. Lauro stated it was the developer's responsibility to work with the Army Corps of Engineers and requested that the Planning Commission not delay the process at this point. Lauro stated that the traffic study numbers were not correct and the study could be revised. Lauro stated the traffic study does identify the need for a signalized intersection and a variety of other improvements and questioned the need for a revised study. Cmmr. Herzog requested clarification on whether the developer would provide attainable/affordable housing and the location within the development. Lauro stated the developer has committed to some form of attainable housing. Valldejuli stated the attainable housing would likely be located in the southwest corner of the property near the County Road and Bridge facilities. Cmmr. Herzog stated he appreciated the project concept and design but acknowledged concerns regarding densities abutting the eastern property boundary. Cmmr. Hart questioned the setbacks for the A-District designation. Staff stated a ten (10) foot rear setback was required. Staff summarized the major issues which included densities within the eastern 48 acres that were not compatible with the Comprehensive Plan, potentially significant issues regarding wetlands/violations and a traffic study that was not accurate or comprehensive. Chairman Bunning opened the public hearing for comment. Ernie Amos requested clarification on the number of units that would be constructed in the eastern 48 acres identified as 'Rural Residential'. Staff stated approximately 250 based on the amount of multi-family parcels (acreage) located within this designation. Valldejuli stated the rear parcels will calculate at 8 du/acre. Amos stated the 'Rural Residential' classification is supported by Tierra del Oro and encouraged the Planning Commission to honor the intentions of the Comprehensive Plan and the decisions that were previously made regarding this property. Lauro stated the developer fails to understand why a shifted density to the western 48 acres creates an improved development. Amos stated the Tierra del Oro HOA supported the 'Rural Residential' and did not want high density abutting their subdivision. Lauro requested direction from the Planning Commission on the comments included in the staff report requesting un-restricted access onto Tierra del Oro drive. Lauro stated the developer does not want to commit to removal of the crash gate based on CDOT concerns with an additional access and concerns previously expressed by the Tierra del Oro property owners. Staff stated the LUDC specifically required two (2) right-of-way access points and the subdivision exception process did not allow exemptions for roadway standards. Bob Hart stated the developer has been attempting to receive entitlements on this project for years and the Planning Commission should allow

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them to proceed if the overall development plan is acceptable. Bill Hudson cited Goal G-6 (Comprehensive Plan) which reads '*New private development will fit in with existing residential, commercial and other areas and will incorporate principles of livable and sustainable design*'. Hudson stated this was a powerful statement in regards to livable and sustainable design and encouraged the Planning Commission to consider this goal. Hudson noted the developer was requesting the Planning Commission to bend land use code provisions. Cmmr. Herzog concluded the development was an integral component to the Town and reiterated his concerns regarding densities within the 'Rural Residential' classification. Herzog continued to explain the overall project concept was acceptable, the annexation assessment and traffic study should be more accurate and the Army Corps of Engineers comments were not a concern at this point in the process. Chairman Bunning closed the agenda item for comment. Cmmr. Herzog motioned to table the agenda item in order to finalize agenda item A. Cmmr. Hart seconded the motion. The motion was unanimously approved.

A. Blue Sky Village Annexation & Zoning – Chairman Bunning stated the annexation assessment and associated economic/fiscal analysis should not be an issue that restricts the annexation from moving forward. Chairman Bunning stated additional information was needed to make an informed decision on the subdivision application. Cmmr. Herzog motioned to recommend approval of the Blue Sky Village Annexation and Zoning with the understanding the annexation assessment and associated economic/fiscal analysis would be accepted as submitted. Cmmr. Hart seconded the motion. The motion was unanimously approved.

B. Blue Sky Village Subdivision – Cmmr. Hart stated the subdivision application did not include enough information regarding density per parcel. Cmmr. Hart stated a conceptual sketch identifying building envelopes and densities would be helpful. Chairman Bunning stated the developer should reduce densities on the eastern 48 acres and provide additional information on the transition of density throughout the development. Valldejuli stated a complete preliminary plat was submitted and depicted the parcels and proposed density. Cmmr. Hart motioned to continue consideration of the request until the applicant could provide a sketch depicting densities by parcel and transitions throughout the development. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

A. Blue Sky Village Annexation & Zoning – Cmmr. Herzog clarified the original motion in regards to the annexation & zoning to include the recommendation that Council accept the zone districts as proposed by the applicant. Cmmr. Hart seconded the motion. The motion was unanimously approved.

VI. Reports and Comments

A. Staff – Next meeting August 26, 2008 @ 5:00 p.m.

Minutes approved: _____

Chairman Tracy Bunning