

Pagosa Springs Planning Commission

Meeting Minutes – April 28, 2009

I. Call to Order / Roll Call

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

II. Announcements

III. Consent Agenda

A. Approval of the February 24, 2009 meeting minutes – Cmmr. Herzog motioned to approve the February 24, 2009 meeting minutes. Cmmr. Lattin seconded the motion. The motion was unanimously approved.

IV. Design Review Board

V. Planning Commission

A. Aspen Village Phase II Public/Private Improvement Bond Extension Request – Staff introduced the request by the applicant, Pagosa Partners I Inc, to review bond extensions for public/private improvements associated with Aspen Village Phase II until September 2010. Staff stated for background purposes, on March 19, 2009 the town issued a letter to Pagosa Partners I Inc which clarified the current standing of public/private improvement bonds as extensions issued in August of 2006 and 2007 had expired. Staff stated the bonds required renewal consistent with terms as established within the development improvement agreement. Staff noted per town records a total of \$171,794.00 remains in a performance bond for the completion of private improvements and a total of \$27,500.00 remains in a performance bond for public improvements. Staff stated according to Section 21.7.14 of the land use code the town has two options: (a) extend the timeframe for completion of improvements at the request of the developer; or (b) withdraw and employ from the collateral such funds as may be necessary to construct/complete the improvements. Staff noted in order to implement option (b) the town would need to comply with Section 16 of the development improvement agreement which sets forth a required default notice/hearing prior to any use of construction collateral. Staff recommended approval of the bond extensions until September 14, 2010. Cmmr. Herzog questioned whether the Alpha Drive situation should be considered simultaneously with this request. Staff stated these performance bonds are posted as construction security for specific improvements that are outlined in the development improvement agreement and does not have any relevance to Alpha Drive or the memorandum of understanding (MOU). Cmmr. Lattin questioned why these improvements have not been completed as the project was approved and bonded years ago. In regard to public improvements, staff stated the developer has completed the improvements associated with the (\$27,500.00) performance bond which included 1,600 lineal feet of sidewalk, drainage improvements and traffic control modifications. Staff stated the bond needs to be extended; however, the applicant is working towards final acceptance of these improvements which would result in the release of this bond in its entirety. Staff explained that a portion of the sidewalk was not previously completed because of design modifications requested by the Enclave and Cottages. Staff noted that the traffic control modifications simply included the time to increase the height of the control devices to meet required minimum traffic design standards. Staff stated the \$171,794.00 private improvement performance bond secures landscaping and trail

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improvements associated with Phase II. Staff stated a majority of these landscaping improvements are within the designated right-of-way and will be completed at which time the lots are sold and developed. Staff stated the developer does not want to place the landscaping and then have it ruined by development on the individual parcels. Cmmr. Lattin stated that the graded lots create erosion/dust issues and this problem should be addressed by the Planning Commission for future projects. Chairman Bunning agreed that the reclamation of this open landscape was outside the provisions of the land use code. Cmmr. Woodruff stated these improvements will not mitigate the erosion/dust/open field problem. Cmmr. Lattin questioned what would happen in the upcoming years if this request was approved and reiterated that the extensions cannot last forever. Cmmr. Herzog stated the economic situation is a component to this discussion and suggested that this may be an appropriate time to be lenient. Cmmr. Lattin stated it would be helpful to have a proposal or a game plan to increase the likelihood that some improvements would be completed by 2010. Chairman Bunning opened the public hearing for comment. Owen Parker stated the developer has not carried forward with their responsibilities and reiterated that the town did not secure the required bond for Alpha Drive improvements as defined in the memorandum of understanding. Parker stated the developer is finally considering payment of maintenance fees for this section of roadway and suggested that the developer's inability to meet responsibilities was not the problem of homeowners within the Alpha Subdivision. Parker recognized that the bond extension request and Alpha Drive issues were separate and recommended that the board table the discussion until further discussion occurs with Pagosa Partners I Inc. Chairman Bunning clarified that the bonds for Aspen Village Phase II could not be translated into security for Alpha Drive. Parker agreed and questioned at which point would the town no longer let the developer slide for another year. Parker stated the developer is asking for a favor and the town needs to control the situation. Nancy Rea stated the agenda item caught her attention as she is a member of the board of directors for the Archuleta Educational Center. Rea stated this group is considering purchasing expensive property within Aspen Village and questioned how other investors will view the development if the landscaping and improvements are not complete. Chairman Bunning suggested that the extensions be granted if the developer can establish a phased implementation plan. Cmmr. Woodruff questioned the location of the bonded landscaping improvements. Staff stated a map was not included in the PC packets. Chairman Bunning concurred with Cmmr. Woodruff and noted it would be helpful to have an idea of the specific improvements and associated dollar allocation. Chairman Bunning closed the agenda item. Staff requested clarification on the direction of the board. Chairman Bunning stated the board would like to see a map identifying development phases, an outline of funds allocated to the remaining improvements and a proposal for incremental progress. Cmmr. Lattin motioned to continue the request until the next regularly scheduled meeting. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

B. River's Edge Development Improvement Agreement Addendum Review – Staff introduced the request by the applicant, Pagosa River Investment Group LLC, to review a development improvement addendum which would separate the project into two (2) phases. Staff stated the applicant previously received approvals to construct eight (8) townhomes on approximately 0.528 acres. Staff stated the proposed addendum is drafted to separate the project and associated public/private improvements into two (2) phases; thereby, allowing the developer to post construction security at which time building permits are issued for 'phase II'. Staff noted under the terms of the addendum, at the issuance of any building permit within phase II, the developer is required to provide revised public/private improvement cost estimates for which construction collateral shall

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be secured. Staff stated according to Section 21.7.14 of the land use code the town has two options: (a) extend the timeframe for completion of public and/or private improvements at the request of the developer (i.e. separate into phases); or (b) initiate default proceedings and any such remedies as established in Section 15 of the development improvement agreement. Staff recommended approval of the DIA addendum as drafted. Chairman Bunning questioned whether the first four (4) units had been issued a certificate of occupancy. Staff stated the CO's were indeed issued. Chairman Bunning opened the public hearing for comment. Nancy Rea commended the developer for finishing the landscaping. Chairman Bunning closed the agenda item. Cmmr. Lattin motioned to recommend approval of the development improvement agreement addendum as drafted. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

V. Reports and Comments

A. Town to Lakes Trail Update: Staff stated the town is continuing to pursue easements with the remaining property owners along this proposed trail alignment. Staff stated at the April 7th, 2009 Council meeting the trail was discussed at length and the Council was looking for this project to move towards completion. Staff stated the Council is intent on securing the access through the Stanger property and would consider use of eminent domain if determined absolutely necessary. Staff stated contact has been established with the Stanger's and hopefully an amenable solution can be reached for all parties within a reasonable time period.

B. Alpha Drive: Staff stated the town has requested that Pagosa Partners I Inc and Alpha/Rock Ridge Metro District address billing/payment issues prior to any further action/discussion regarding the future of this road. Staff stated Pagosa Partners I Inc has requested that the town annex this segment of road and subsequently establish a maintenance agreement with Aspen Village.

C. Planning Commission – Cmmr. Lattin requested that staff inform the council about incomplete landscaping for structures with a temporary certificate of occupancy. Staff stated that the building/planning departments are formulating recommendations and suggestions for council's consideration. Staff stated that this information would hopefully be brought before the PC for discussion and recommendation. Cmmr. Lattin questioned why letters of credit have expired for certain developments. Staff stated they were accepted by the town with an expiration date and were not issued by the bank as irrevocable. Staff stated this may be a concern that needs to be addressed and codified into the land use code. Cmmr. Lattin requested that staff inform council about this concern.

D. Next Meeting May 12, 2009 @ 5 p.m.

Minutes approved: _____

Chairman Tracy Bunning