

Pagosa Springs Planning Commission

Meeting Minutes – May 12, 2009

I. Call to Order / Roll Call

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

II. Announcements

III. Consent Agenda

A. Approval of the April 28, 2009 meeting minutes – Cmmr. Lattin motioned to approve the April 28, 2009 meeting minutes. Cmmr. Herzog 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 [CONTINUED] – 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 at the April 28, 2009 meeting the agenda item was continued by the PC until the next regularly scheduled meeting with the request that the following information be provided: (a) a map identifying development phases within Aspen Village; (b) an outline of funds allocated to the remaining improvements; and (c) a proposal for incremental progress. Staff stated the first two requests were placed in the PC packets. In regards to the proposal for incremental progress; staff stated the applicant has indicated that progress is strictly dependant on the economy and upon the sale of parcels within the development the private improvements would be completed. 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. Chairman Bunning suggested that a dollar amount be secured for the completion of private improvements based on the sale of the remaining lots within the development. Staff stated the Town did have a letter of credit in the amount of \$171,794.00 which secured the construction of the phase II private improvements. Cmmr. Herzog stated the developer could sell numerous lots and there was no commitment to completion if the extension was granted. Cmmr. Hart stated it would be advantageous for the Town to secure cash in an escrow account instead of a bond. Staff reiterated that the bond was irrevocable and covered the entirety of the required improvements. Chairman Bunning expressed concern that the costs of improvements were based on figures from 2005 and suggested that the bond be increased incrementally to cover inflation; if progress was not made. Cmmr. Lattin stated the developer should complete the landscaping as the lots are sold. Chairman Bunning stated there is an economy of scale involved and it does not make sense for the developer to complete landscaping adjacent to a few lots that have been sold. Cmmr. Lattin stated that the extension could be granted but a review of cost estimates was probably necessary within the first six (6) months to determine whether the bond amount is adequate.

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Chairman Bunning recognized project representative Mike Church and his arrival to the meeting. Church stated there is no money in the local economy and Aspen Village is the only project in the incorporated limits of the Town with decent infrastructure. Church stated the developers need to sell lots and are not backing away from their commitment to complete the landscaping. Church stated a majority of the remaining improvements include rock and ponderosa trees within the designated ROW. Church suggested that the bond is well above the amount required and stated it could not be reduced beyond the 50% mark. Staff clarified and stated construction security for private improvements are released upon completion and there is no 50% retainer required per the Development Improvement Agreement. Chairman Bunning stated the PC was concerned with the annual continuation/extension of bonds and questioned whether 171k would be enough money to complete the improvements in two (2) years if the developer happened to abandon the project. Chairman Bunning stated it may be appropriate to re-visit the cost estimates in six (6) months and verify that adequate money exists until September 14, 2010. Church stated the remaining bond was in excess of the costs to complete the improvements; however, concurred that a revised cost estimate could be prepared and submitted to the Town. Church stated the improvements from this point forward are not complicated and reiterated that sufficient funds exist. Cmmr. Lattin questioned whether Church was legally representing Pagosa Partners I Inc. Church stated that he was indeed the legal representative although he was no longer working directly for the project. Church stated the value of the land is worth a lot more than the bank note on this project and suggested that the developers are not intending to abandon the project. Church noted that it would likely be two (2) years before the commercial market returns to Pagosa Springs. Chairman Bunning stated a revised cost estimate should be submitted within six (6) months and the bond needs to cover the total improvement amount plus ten (10) percent, at minimum. Chairman Bunning clarified that any amount in excess of the 10% would not be released unless improvements were completed. Chairman Bunning opened the public hearing for comment. No comment was received. Chairman Bunning closed the agenda item for comment. Cmmr. Herzog motioned to recommend approval of the bond extensions until September 14, 2010 with the following conditions: (1) a revised cost estimate for remaining improvements is submitted no later than October 1, 2009; and (2) verification is provided that the bond covers the total improvement costs plus an additional 10%. Cmmr. Lattin 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.

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- C. Planning Commission – None.**
- D. Next Meeting May 28, 2009 @ 5 p.m.**

Minutes approved: _____
Chairman Tracy Bunning