Pagosa Springs Planning Commission
Meeting Minutes – May 28, 2009

I. Call to Order / Roll Call

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

II. Announcements

III. Consent Agenda

A. Approval of the May 12, 2009 meeting minutes – Cmmr. Hart motioned to approve the April 28, 2009 meeting minutes. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

IV. Design Review Board

A. Trinity Anglican Church New Construction – Staff introduced the request by the applicant, Trinity Anglican Church, to review an approximate 1,150 square foot church pursuant to Section 2.4.6 of the Land Use Code. Staff stated the submitted plans show a single access point from Harman Park Drive and further noted that the applicant intended to only construct an approximate 12 foot paved driveway on church property. Staff stated the original codes & covenants for Harman Park included some poorly written language which discussed ingress/egress access easements between each property boundary. Staff suggested that at some point the entire driveway would need to be constructed which would require a shared access between both properties (Lot H-8 and Lot H-6X). Staff stated it would be advantageous for these property owners to create a formal access easement deed to be recorded in the real property records of Archuleta County. Cmmr. Herzog questioned whether the access as proposed encroached onto the adjacent lot. Staff stated the driveway cut was situated in the right-of-way to provide access to both properties through a shared access scenario; however, a formal agreement had never been recorded outside of the rather broad language within the Harman Park codes & covenants. Cmmr. Herzog questioned whether the adjacent owner was willing to finalize this easement deed. Staff stated during the Papoose Court project review the owner of this property supported the idea. Project representative, Bob Hart stated the driveway is located based on the original plat for Harman Park that was filed with the Town. Hart explained the driveway would continue past the parking lot to provide fire access to the proposed structure. Chairman Bunning stated a formal access easement deed between the property owners should be completed per the staff report. Cmmr. Herzog questioned whether including the easement deed requirement as a condition of approval was reasonable to the applicant. Hart stated it was reasonable but noted they would not like the project held up based on this fact. Chairman Bunning opened the public hearing for comment. Bruce Hoch stated the PC should allow the applicant time, possibly up until time of certificate of occupancy, to secure the easement deed. Chairman Bunning closed the agenda item for comment. Cmmr. Woodruff motioned to approve the Trinity Anglican Church development plan with the following condition: (1) the easement deed be secured prior to issuance of certificate of occupancy. Cmmr. Herzog seconded the motion. Cmmr. Hart questioned whether the motion should specify temporary certificate of occupancy or certificate of occupancy. Cmmr. Woodruff modified the motion to require a finalized easement deed prior to issuance of any certificate of occupancy. The motion was unanimously approved.

V. Planning Commission

A. The Outfitter Department Store Setback Clarification Request – Staff introduced the request by the applicant, Bruce & Karen Hoch, to determine the applicability of front and side setbacks for the structure located at 21 Pike Drive. Staff stated the applicant would like to complete an approximate 500 square foot addition to the west elevation of the structure, which abuts Pike Drive. Staff stated based on Article 5 of the Land Use Code the following dimensional requirements apply in regards to setbacks: Front – 40 foot from highway or 20 foot from secondary road (Pike Drive being classified as a secondary road); Side – 5 foot or 10 foot for corner lots; and Rear – 5 foot. Staff stated due to the location of the property line the existing western boundary setback ranged from approximately 5 feet to 20 feet. Staff noted the proposed structure, if constructed, would include a side setback ranging from approximately 8 feet to 10 feet. Staff explained it is apparent the structure was built with the front setback abutting Hwy 160 (originally addressed as 1825 W. Highway 160); however, the driveway is located on Pike Drive which typically determines the front setback. Staff recommended, based on the previous site arrangement of the building that side setback requirements as defined in the land use code apply to the west elevation and front setback be defined as the south building elevation. Staff continued to explain that any encroachments into the required ten (10) foot setback from new construction (if so determined by the PC) per LUDC dimensional standards would require a form variance application unless otherwise mitigated through minor modification provisions as established within Section 2.4.12 of the Land Use Code (10% modification to certain dimensional standards such as setbacks). Cmmr. Woodruff questioned whether the applicant disagreed with any information within the staff report. Chairman Bunning stated the northern part of the building (storage shed) was already encroaching into the ten (10) foot side setback requirement. Project representative, Bruce Hoch stated the northwest corner of the retail building was 5’2” to the property line and the southwest corner of the structure where the new addition would start was approximately 7 foot from the property line. Hoch stated he believed a formal variance application was not necessary as this project was being proposed in an economically depressed time. Hoch further noted that other communities have taken steps to allow development to occur with plans approved at the time of submittal with no delays whatsoever. Hoch stated a jog in the proposed addition to avoid the setback would not be feasible aesthetically. Cmmr. Hart stated the board concurs that the elevation abutting Pike Drive should be the side setback; however, Cmmr. Hart noted the PC cannot waive the formal variance application process as it is firmly defined in the code. Chairman Bunning agreed with Cmmr. Hart’s interpretation. Cmmr. Herzog stated this setback encroachment was a great candidate for a variance but the PC cannot avoid the regulations as defined in the Land Use Code. Cmmr. Hart agreed with Hoch that a jog in the building does not make sense from a visual standpoint. Hoch stated he did not believe the $300 variance fee should apply to this request. Cmmr. Woodruff suggested it was not within the PC/DRB authority to waive fees. Town Manager David Mitchem stated he would be happy to forward any fee recommendation from the PC to Council for consideration. Cmmr. Woodruff stated the board did not want to set a precedent by recommending fee waivers to the Council for projects. Chairman Bunning opened the agenda item for comment. John Voden stated the proposed addition would clean up the west elevation of this building and recommended the PC waive variance fees for the next eighteen (18) months to avoid setting a precedent. Chairman Bunning reiterated that it was not the PC/DRB responsibility to consider fee waivers. Chairman Bunning stated the board should make a decision on the determination of the side setback and forward any fee discussion to Council. Staff stated the June 2, 2009 Council meeting could

accommodate this fee waiver request. Chairman Bunning stated the PC/DRB does not have an understanding of the town's fiscal condition therefore this decision should be under Council review. Cmmr. Woodruff stated variances comprise a small portion of the overall fees derived from development and did not have a problem forwarding this request. Cmmr. Woodruff stated the town does need to consider the larger picture fee schedule at some point in comparison to the current economic situation. Chairman Bunning stated new construction on the highway would be an encouraging sign to the community. Cmmr. Herzog stated the board did not want to create a precedent but under the circumstances he felt this fee waiver request should be forwarded for consideration. Chairman Bunning closed the agenda item for comment. Cmmr. Hart motioned to formally acknowledge that the west property boundary shall meet applicable side setback requirements (10 feet) as defined in the Land Use Code with the understanding that any encroachments would require a formal variance application. Cmmr. Hart further requested that town staff forward the fee waiver request to Council for consideration at the June 2, 2009 meeting. Cmmr. Herzog seconded the motion. The motion was unanimously approved.

V. Reports and Comments

A. Staff: Staff stated Town Manger David Mitchem would be handling the Planning Commission/Design Review/Board of Adjustment meetings from this point forward until a Town Planner was hired.

B. Planning Commission – None.

C. Next Meeting June 9, 2009 @ 5 p.m.

Minutes approved: _____

Chairman Tracy Bunning