



**Planning Commission, Board of Adjustments
& Design Review Board**
Regular Scheduled Meeting Minutes
Tuesday, July 10, 2012 at 5:15 p.m.
Community Center Gymnasium
451 Hot Springs Boulevard, Pagosa Springs, Colorado 81147

- I. **Call to order / Roll Call** – Commission Chair Lattin, Commissioner Woodruff, Commissioner Parker, and Commissioner White were present. Commissioner Lattin called meeting to order at 5:20 p.m.
- II. **Announcements** N/A
- III. **Approval of Minutes**
 - A. Approval of June 12, 2012 Planning Commission Meeting Minutes. The minutes were approved as presented with no changes.
- IV. **Board of Adjustments** N/A
- V. **Planning Commission** N/A
- VI. **Design Review Board**
 - A. Continuation of Public Hearing regarding Wal-Mart application for "Major Design Review". This meeting is a continuation from the May 22nd Planning Commission hearing regarding major design review application submitted by Wal-Mart. Wal-Mart has made a number of adjustments in response to the comments made at the last meeting. Wal-Mart provided a presentation for the Commission detailing adjustments to the plan. The Project group addressed each comment made during the May 22nd meeting. Mr. Carl Schmidlein from Galloway & Company, Inc., addressed site plan issues, screening & buffering, pedestrian walkways, and Alpha Drive improvements. The group changed the access points on Aspen Village Drive to insure the 125' separation from Tanglewood requirements as well as increase the buffering and screening of the building. The group focused on sidewalk improvements, as well as bench groupings and planter boxes in front of the building to add separation and safety for the customers. Improvements to Alpha Drive will include three lane width road (with center turn lane) completed during the construction of the Walmart. The applicant will provide the one year warranty and performance surety described through the development improvement agreement prior to building permit. Archuleta County Attorney Todd Starr spoke about the annexation of Alpha Drive from the County to the Town, and stated that the Town is working in conjunction with the County to find a satisfactory, cooperative, and timely solution. Mr. Schmidlein continued his portion of the presentation by discussing a snow removal plan and protection of the north facing entry way. Chad Haller, BRR Architecture, Project Architect went through old designs, the architects added depth to multiple portions of the walls with a stucco finish, timber trellis elements, color variation, parapet stepping, and decorative cornices. Architects reduced building height increased size of timber elements and the wood elements canopies. The freestanding monument sign proposed on the Aspen Village Drive entrance has been removed from the plans. Mr. Haller also addressed rooftop screening and buffering. Mr. Schmidlein spoke about parking area layout and landscaping features; Wal-Mart has offered substantial landscaping which exceeds the requirements of the LUDC. Mr. Brandon Alley with Galloway spoke about side drainage compliance and modifications to the prior plan. An underground detention system is proposed to mitigate the run-off overflows and reduce run-off rates. This is not required by the Town code but the applicant feels it is necessary for the site. This improved system will filter and

added measure of water quality before running into the ponds. This system will treat 90% of the storm water run-off. Ms. Peggy Graham from Advanced Drainage Systems, gave a detailed presentation on StormTech's subsurface storm water management system. Mr. Phillip Taylor of Hydro International gave a detailed presentation concerning the Downstream Defender which pre-treats storm water. Mr. Schmidlein moved on to discuss the 404 permit application that the project group submitted to the Army Core of Engineers. The ACOE has not responded, but will do so shortly. The group also submitted the access permit applications for Alpha Drive and Aspen Village Drive to CDOT, and received comments on June 14th and have revised the traffic study, and resubmitted the amended traffic study. The addition of an acceleration lane from Aspen Village Drive going up to Boulder Drive on Hwy 160 was brought up, and Wal-Mart has agreed to provide this acceleration lane. The intersection at Cornerstone Drive and Aspen Village Drive will be modified to a two stop only intersection, as well as the addition of turn pockets. The Colorado Department of Wildlife approval, all though not required, of the building shows a migratory bird and raptor survey, was completed and came back as the lack of any negligible effects. A survey was also conducted for the Sky Rocket flower, and also showed they are not located on the proposed site. The Project Group still needs to apply for a sign variance for the building and understand they will go through this process. Wal-Mart has reimbursed the Town in full, and intends to reimburse the Town as more receipts accrue. Mr. Schmidlein went into further detail about landscaping review and concluded with a brief overview of LED lighting, Wal-Mart's standards and the Model Lighting Ordinance.

Planning Director Dickhoff went through each item that the applicant already discussed. Applicant has provided documentation and notification adequate for our LUDC and the state statute requirement statue for notification of mineral owners for state owner and lease deeds. Screening and buffering of adjacent properties – applicant has moved east truck access, reduced opening from 75 ft to 50 ft, and has increased landscaping and buffering. Applicant has increased other truck access from 40 to 50 to accommodate turning radius. Heights of rooftop equipment are under required 31 feet and provided the addition of parapet walls, screening of rooftop equipment. The address of the pedestrian circulation and gathering/sitting areas, references the LUDC 6.5 – 6.7.3. Applicant added north/south walkway in the parking lot for handicap and safe route separation and has provided a separation between front of store between vehicle way and pedestrian sidewalk. The north facing entrance and design is being addressed and is satisfactory. Maintenance of snow removal as well as water quality structures if a snow melt system is used has been reviewed. Mr. Paul Wymer with Bohannon Huston said the safety items the designers has put in for the northern orientation of the store complies with the LUDC requirements. Planner Dickhoff said the modifications in the design including wood, stucco, and block is a big improvement. The parking area will be broken up with tree islands, raised walkways, perimeter landscaping, meeting the LUDC requirements. The Alpha Drive engineered plans including financial security of the cost of the project, once improved, the Town will monitor the road for a year, after the year if all specifications meet the Towns requirements, the Town will then take over Alpha Drive. The wider entrance of 39 feet (30 feet per LUDC) could be considered an improvement to accommodate the three turn lanes, but will be amended if the board deems. The site drainage was addressed by Mark West with Bohannon Huston who stated water quality design exceeds the requirements of the master drainage study, giving a redundancy of the primary and secondary system. The underground storm water detention system brings the levels within the study and complies with the LUDC. The drainage plans will be submitted with the building plans and reviewed by Mr. West. The Army Corps application has been submitted and is waiting for response to include comments from the EPA, US Fish and Wildlife. The Army Corp of Engineers permit is required prior to the building permit. The CDOT comments

have been received and amended by the applicant and resubmitted, the access permit is required prior to building permit. The sign variance application still needs to be submitted. The reimbursement of costs has been received from Wal-Mart to date. The lighting plan requirements are in compliance with the code. An additional fire hydrant was added to the plan per the request of the fire department. Bike racks and easement for the open space trail will be accommodated by the applicant as well as a contribution to the Town to Pagosa Lakes trail. All fertilizer products will not be exposed to the exterior of the store, but will be kept inside the store for concern of drainage into the surrounding wetland and Pinon Lake. No cargo containers are to be used. PAWSD has submitted a will serve letter for potable water for the project. Mr. Eric Grave with Bohanna Huston, explained the traffic plan analysis was consistent with the Hwy 160 traffic control plan and the rest of the Aspen Village Development master plan. He is confident the traffic operations will work effectively and have the capacity to handle the traffic and operate at acceptable levels.

VII. Public Comment

A. Opportunity for the public to provide comments and to address the Planning Commission on items not on the Agenda. Mr. Bill Hudson is happy to hear the details Wal-Mart has submitted, but would like to address the suitability of the building to the adjacent structures. He said the applicant has brought a generic big-box and believes this building does not fit in the community. Mr. Jerry Pope is the owner of the Cottages in the Enclave, and said his most of his concerns have been addressed. He said the visual and noise pollution is his concern and would like the wall issue on the south side addressed. Mr. Wayne Wahls said his business is tourism and predicts tourism will drop 50% in the next ten years due to the reduction of the middle class in Pagosa Springs. Mrs. Vivian Rader said the Army Corp is accepting public comment. She said the required neighborhood meeting was not performed, and people close to the site were not informed in writing of the meeting. She said the comments made by Attorney Todd Starr are in conflict with her communication with Mr. Starr. She believes the orientation needs to be addressed and believes the building is being imposed in a residential community and therefore the issues are different. She said Alpha Drive is not owned by the County and believes proper owner, the metro district as well as the Town should be brought in to correct this prior to the approval. Mr. Mike Haynes said the comment made by Town Attorney Cole regarding quasi-judicial was inappropriate. He said this application is monumental and suggests the commissioners get all their questions answered prior to moving forward with the applicant. Mr. Udgar Parsons is very pleased to see the improvements to the water quality system. He would not want the commissioners to rush, but get all the items addressed. He said right-of-way of Alpha Drive is much different than ownership. Ms. Muriel Eason would like to have confidence and integrity in the process and does not see any integrity in this process, and believes there are issues that need to be addressed before committing to the project. Mrs. Cindy Gustafson believes there should be more investigation into the wetlands and the concern with the noise that will permeate the residential areas. Mr. Michael Whiting was on the committee to help write the LUDC, he said the comment made by the county attorney does not suggest that the commissioners support or endorse the project. He said the commissioners agree that Alpha Drive is not a county road. Personally he said the town can do better than a giant wall with the words Wal-Mart on them. He said the CDOT study was not signed by the current commission board. He said that regarding a sign variance code, he said the standard practice in the subdivision is to park a 45 foot tractor trailer near the highway. Mr. Morgan Murri commends the improvements made to the design. He said the reconfiguration of the open space and wetland space is against state statutes. He said a plat amendment is required prior to the reconfiguration of the open space, and a vote of the

property owners is required. Failure and legal action is probable if these standards are not met legally.

Commission Chair Lattin asked for any additional public comments from all audience members. **Yvonne Wilson** has had several conversations regarding the Alpha Drive issue. She said after the fairgrounds meeting she emailed Mr. Josh Phair with no reply. Mr. Ron Gustafson said Wal-Mart donated \$10,000 to the school board. Mr. Jim McQuiggin said the good neighbor donation to the school board was appreciated. The empty City Market building is a sore site, and asking Wal-Mart for a guarantee if they were to pull up stakes. He wondered if legal expenses were reimbursed by item #17, confirmed by staff they were. He commended Wal-Mart for the water quality improvements, and asked who is responsible for any mishaps with the water control. Mr. Mark Weiler is on the Community Development Corporation (CDC), and suggests Wal-Mart enter into a community benefits agreement with the CDC. Ms. Chrissy Karis said the proposed building looks like a Wal-Mart and is embarrassed to have a Wal-Mart in the community; she doesn't believe the town needs a Wal-Mart. Closed to public comment.

Commissioner Lattin asked about the maintenance of the fabric used in the water treatment system. Ms. Peggy Graham said a jet vac will be used to clean the fabric. Commissioner Lattin asked if the snow storage area will be on the parking lot or open area. Mr. Schmidlein said the phase 1 snow storage area is outside of the community area along the north end flowing the southern direction into the treatment systems. Both snow storage areas will flow into the treatment systems. He also explained the parking lot has crosswalk areas to help with the safety of the customers. He said pending all of the approvals, the proposed ground breaking will take place spring of 2013, with an opening in 1st quarter of 2014. The Alpha Drive improvements would need to be completed prior to certificate of occupancy, so prior to the 2014 opening. The CDOT improvements to the hwy next step be in process and secured prior to construction beginning. The Town streets department has agreed to all the proposed improvements along Aspen Village Drive. The Aspen Village Drive improvements include two lanes from Hwy 160 toward Cornerstone Dr., a left turn lane will be installed. The improvements include an accel lane from Aspen Village Drive onto Hwy 160 that would continue to the Boulder Dr. deceleration lane. Commissioners Lattin asked about the homeowners association in the development. Planner Dickhoff said there are three separate property owners association within the master Aspen Village Development property owners association. For instance, there is a Plaza Association where the Sears building is located. Once the property owner sells 51 percent of the property, the master association will be formed. The current masters association is functioning as a design review board only.

Commissioner White thanked the applicant for responding to the boards concerns, he does not believe the applicant has responded to the community. He asked about the amount to be donated to the trail. Mr. Josh Phair said the amount to be donated should not be used to decide on the application. He said Wal-Mart does not have any community benefits agreement with other communities in Colorado. He said the company is willing to work and discuss how to enter into the community in a responsible way, but that committing to a community benefits agreement is not something he can commit to at this meeting. He said their company is one of the largest cash contributors to communities in the U.S. He said the decision for a 24 hour store cannot be made at this time. Commissioner White asked about the use of local contractors. Mr. Phair said once the project goes out to bid the selected general contractor would be hire their sub-contractors, but that Wal-Mart would not require the general contractor to hire locally. Commissioner White would like to see a minimum of 25% of contractors be local. The trees will be purchased locally.

Commissioner White asked about who would be responsible for maintenance and failure of devices. Mr. Alley said ultimately Wal-Mart is responsible for the maintenance and liability of the failure of the devices. Commissioner White asked about the neighborhood meeting required in the LUDC. Wal-Mart worked with staff to coordinate notices and publication of the neighborhood meeting. Planner Dickhoff said the open house was noticed in the Sun Newspaper over two weeks. Commissioner White is concerned about the lack of heated snow melt system on the north side of the building, he would like to see them use a heated system rather than put de-icer in the filtration system. He disagrees with staff that this development plan will not alter the character of the neighborhood, he believes it will alter it. Commissioner Parker thanked the public for their comments, ideas and passion for the project. He thanked the applicant for their effort to responding and changes to the plan, he feels the applicant has made the effort to hear the comments made and have gone above and beyond even the Town's code. He appreciates the visual and noise screening proposed, he would like to see a six foot concrete wall to benefit the screening effects. He asked about trucks entering access and suggests the consideration of moving the access across Tanglewood and access onto Alpha Drive. He said the designers have done a good job with the landscape design, he suggests just a few details in the tree selection for screening and shading options as well as planter options. He would like language in the applicant's operation manual regarding snow removal and training of the use of snow melt. He suggested a reduction of lighting later in the evening hours depending on store hours and use of parking area. He is interested in the re-configuration of the open space area. Commissioner Woodruff would like to see the configuration of the open space area within the owners association. Also she would like the issue of Alpha Drive resolved and clarified. She asked who has responsibility of the road and although a district or division has maintained the road doesn't necessarily mean they own it. Commissioner Parker said the Town and applicant should be able to come to an agreement regarding community benefits without putting overly aggressive terms on the applicant. Each applicant should be treated the same and held to the same standards no matter how big or small.

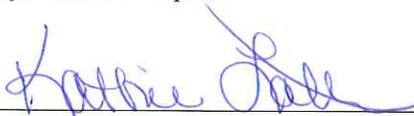
Commission White moved to continue the Wal-Mart major design review for public hearing on Tuesday August 14th 2012 at 5:15pm at the Ross Aragon Community Center to receive additional presentation and public comment regarding the following identified items; (1) possible other snow removal plans for the front of the building (2) solve the Alpha Drive dilemma and get to the bottom of that (3) see the Wal-Mart representatives hold a true neighborhood meeting with all the neighbors in the neighborhood both commercial and residential (4) from here forward always refer to Pond A as the wetlands (5) submission of community benefits agreement after the representatives from Wal-Mart hold a meeting with the CDC (6) some sort of commitment to a percentage of local contractors (7) draft a legal transfer of the open space. Commissioner White then amended his motion to include Resolution 2012-12, these seven items read in addition to the Resolution 2012-12. For clarification of the motion, Planning Director Dickhoff restated items identified by Commissioner White in his original motion, they include (1) looking into options to better address the north facing entrance of the building for snow and ice removal (2) clarify the Alpha Drive ownership details (3) conduct a neighborhood meeting to include commercial and residential property owners within 300 feet (per the LUDC) (4) hold a meeting with the Community Development Corporation for consideration of a community benefits agreement (5) the consideration to include a certain percentage of local contractors in the construction project (6) confirm the legal transfer of the open space parcel, and including these top six items as official consideration into Resolution 2012-12 to be considered at the August 14th public hearing continuation, and include items brought up by Commissioner Parker including (7) the possible installation of a six-foot screen wall along the southeast side of the development, and (8) look at options to revise truck access points including

moving the southeast access to line up with the Tanglewood Drive intersection, may include removal of the south entrance on Aspen Village Drive and possible access from the southern access on Alpha Drive to the development. Commissioner White confirmed Planning Director Dickhoff's review as his motion, Commissioner Parker seconded, motion passed.

IX. Public Comment - Opportunity for the public to provide comments and to address the Planning Commission on items not on the Agenda. Ms. Vivian Rader said it was unclear as to what she was allowed to address. She said a member of the public made a comment during the May 23rd meeting regarding trash in the neighborhood. She said there was ridicule by a member of the applicant toward the public making the comment. She would like all applicants to treat the public with respect and asked the commissioners make sure it is upheld. Mr. Morgan Murri thanked the commissioners for their time and commitment to the community. Ms. Marilyn Selby has a concern of the 300 foot perimeter public notification area for neighborhood meeting. She lives near the proposed development and is concerned with the traffic. She would like to be included in the neighborhood meeting. Commissioner Lattin said Ms. Selby is invited to attend the public meeting. Planner Dickhoff said the LUDC requires mailing to the property owners within 300 feet, if applicable, as well as publications in the local paper. The town also publishes on the town's website. Mrs. Cindy Gustafson said although there has been some adjustments by Wal-Mart, DSP pizza provided food during the meeting. Mr. Udgar Parsons said Wal-Mart has galvanized the community into action, and he has enjoyed being part of the process and agrees and commends the commissioners have allowed for open engagement. Ms. Muriel Eason said this evening has been open discussion and included the public and feels every voice was heard. Mr. Jim McQuiggin commended the board with improvements on way they handled the meeting, and felt it was a community project. He sees a positive turn in the community. He said a community benefit agreement should be extended and negotiated with all development.

VIII. Reports and Comments - Staff recommended tabling this agenda item until next meeting, and the PC consented.

IX. Adjournment - Upon motion duly made, the meeting adjourned 9:45pm



Kathie Lattin, Chair