



**Planning Commission, Board of Adjustments & Design Review Board**  
**Regular Scheduled Meeting Minutes**  
**February 11, 2014**

Town Hall, Council Chambers, 551 Hot Springs Boulevard, Pagosa Springs, Colorado 81147

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- I. Call to Order / Roll Call:** Commission Chair Kathie Lattin called the meeting to order at 5:30 PM. Commissioners Peter Adams, Ron Maez, and Heidi Martinez were present. Also present were Planning Director James Dickhoff and Associate Planner/Permit Tech Margaret Gallegos. Commissioners Cameron Parker, Cappy White and Natalie Woodruff were absent. Mark Weiler arrived at approximately 6:30 PM to address the Commissioners during Public Comment - Item VIII.
- II. Announcements:** None
- III. Approval of Minutes:**  
A. January 14, 2014 Planning Commission meeting minutes were approved as presented.
- IV. Public Comment:**  
A. Opportunity for the public to provide comments and to address the Commission on items not on the agenda – none received.
- V. Board of Adjustments:** None
- VI. Planning Commission:**

**A. Ordinance No. 805, Amending LUDC Regarding Procedures and Process for Appeals:** Planning Director Dickhoff reported that during and following the Rader's appeal of the Design Review Board's decision on the Wal-Mart Major Design Review application in 2012, it became apparent that the Land Use and Development Code (LUDC) did not appropriately layout the process for an appeals hearing. After some discussions with Town Council at that time and the Town's attorney, a Draft Ordinance was developed to address the issues identified.

As currently in effect, Section 2.4.13 does not establish any procedures for the appeals hearing. While it is not believed this approach is legally defective, as the Town learned in the Rader's appeal of the Wal-Mart application, it can lead to uncertainty requiring a Council-approved temporary procedural order. The presented Ordinance No. 805, Repealing and readopting LUDC section 2.4.13 setting forth a process for appealing decisions made pursuant to the LUDC, permanently establishes an order of proceedings for the appeal hearing which allows the appellant and Town (including the Town Planner and staff) to present evidence to a higher authority-the body hearing the appeal.

The Ordinance includes the appellant's burden of proof, the conduct of the public hearing, what testimony can be excluded, and continuing a public hearing, as well as making a record of the proceedings. Dickhoff noted that the phrase "aggrieved person of interest" is changed to "party-in-interest." The LUDC currently has no definition of an "aggrieved person of interest" and each time an appeal is submitted, it becomes necessary to analyze whether we believe the appellant is an "aggrieved person of interest." By adding a specific definition of a "party-in-interest," it will



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avoid having to make a case-by-case determination of who can file an appeal. A “party-in-interest” is defined as one who has standing to appeal a decision based on fitting into one of the following four categories:

- \* The applicant;
- \* Any party holding a proprietary or possessory interest in the real or personal property which was the subject of the decision of the Original Decision-Maker whose action is to be appealed;
- \* Any person to whom or organization to which the Town mailed notice of the hearing of the Original Decision-Maker; and
- \* Any person who appeared and submitted testimony or evidence before the Original Decision Maker at the hearing on the action which is to be appealed.

The Commission discussed the definitions and concluded the fourth category was acceptable for requiring an appearance and submission of testimony to prevent frivolous appeals. The Commission agreed that the process provides all interested parties with an opportunity to be involved with the process. The Commission also discussed the appeal fee and concluded that the proposed \$100 fee is reasonable and adequately equals the cost of doing business.

In closing, Dickhoff noted that only the applicant is permitted to file an appeal of decisions by the Town Planner and Floodplain Administrator. This is a change from the current Code which allows any aggrieved person of interest to file appeals at any level. This restricts the public from being involved in some land use decisions that may be decided only at the Town Planner or Floodplain Administrator level, and may have the result of disenfranchising some neighbors or others who believe that a land use decision negatively impact them in some way. Either a party-in-interest or the applicant can appeal decisions made by the Board of Adjustments, Design Review Board, Planning Commission, or other boards/commissions. Dickhoff reported that there is no fiscal impact other than the one-time recording fee – approximated at \$50.

**Motion by Commissioner Maez, Seconded by Commissioner Adams, and unanimously carried to approve a recommendation to Town Council to APPROVE Ordinance No. 805, An Ordinance of the Town of Pagosa Springs Repealing and Readopting section 2.4.13 of the Land Use and Development Code setting forth a process for appealing decisions made pursuant to the Land Use and Development Code.**

**B. Home Occupation and Residential Zone District LUDC Signage Regulations:** Continued from the January 14, 2014 meeting, Planning Director Dickhoff noted that the Town's Land Use and Development Code (LUDC) has some conflicting language regarding signs allowed in residential zoning districts and signage prohibited for Home Occupations. It would appear there may be an inconsistency in the LUDC, only allowing signage for some businesses in residential zoning districts.

The LUDC is as follows: Home Occupation LUDC section 4.3.B.4.d: *There shall be no advertising devices on the property or other signs of the home occupation that are visible from off the premises.* LUDC section 6.12.4.1.b.(v): *"In residential areas, no permanent sign of any type*



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*shall exceed twenty-four (24) square feet*". LUDC table 4.1.4 designates limited allowable businesses in residential zone district, however, Home Occupations are only addressed in LUDC section 4.3.B, as an allowable use. Most residential business and home occupation do not approach the maximum 24sq ft. size allowable. If the PC considers recommending to Town Council to allow Home Occupations signage, staff recommends the maximum size is limited for at least the Home Occupations, if not for all businesses in residential zone districts.

Dickhoff presented that Commission with 3, 6 and 12 square foot signage examples. In closing, PD Dickhoff outlined that the fiscal impact to the Town would only occur if the Town Council decided to revise the LUDC, which would require some legal fees and recordation of an Ordinance.

**Motion by Commissioner Maez, Seconded by Commissioner Martinez, and unanimously carried to to direct staff to prepare an Ordinance for the Town Council's consideration for amending the LUDC sections 6.12.4.A.1.b.(v) and 4.3.4.B.4.d. reducing the allowable signage in residential zoning districts and allowing signage for Home Occupations not to exceed three (3) square feet with indirect lighting.**

**C. Consider recommendation to extend Kathie Lattin's PC term for another 4 years:** Staff suggests that the PC motion and vote to recommend the Town Council approve Kathie Lattin's Planning Commission Appointment for another 4-year term.

**Motion by Commissioner Maez, Seconded by Commissioner Martinez, and unanimously carried to recommend to the Town Council that it appoints Kathie Lattin to the Planning Commission for another 4-year term.**

**D. Updated LUDC Planning Commission Binders:** Planning Director Dickhoff reported that over the course of the last 2 years, a few revisions and amendments to the Land Use and Development Code (LUDC) were approved by the Town Council via ordinances. Town staff has inserted the revisions and amendments into the LUDC. In the process, staff determined that re-numbering the pages specific to each article, would be the best manner to remove and insert future revisions, without having the re-print the entire document each time. Staff provided the newly printed LUDC binders to each Commissioner prior to the meeting.

**VII. Design Review Board: None**

**VIII. Public Comment:**

A. Opportunity for the public to provide comments and to address the Commission on items not on the agenda. Mark Weiler of 250 San Juan Street proposed to the Commission that it approves a \$50,000 cash assuredly bond to complete the Parelli Pagosa Property landscaping project at 7 Parelli Way. Planning Director Dickhoff noted that full plans have not been submitted however he and Mr. Weiler met with the landscaper and surveyor and endorses the bonding. Mr. Weiler stated that the project will be completed the end of Summer, 2014. The Commission was



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supportive of the good faith effort to begin and complete the project and recommended that Mr. Weiler continue to work with Dickhoff to complete the necessary paperwork.

**IX. Reports and Comments:**

**A. Town Manager** – Commissioner Lattin, on behalf of TM Mitchem, announced that a meeting between the Town, County and Tourism Committee will take place on Wednesday, February 12 regarding the visitor center and invited the Commission members to attend.

**B. Planning Department Report** – Planning Director Dickhoff provided the following reports to the Commission:

**Town Council (TC) approved one year extension for Sawmill Place Development Preliminary Plans** - On January 23, the Town Council approved a one year extension for the Sawmill Place Development Preliminary Plan with no addition contingencies.

**6th Street Pedestrian Bridge Grant** - The 6th Street Pedestrian Bridge GOCO grant was not awarded. The town's application was 13 out of over 40 applications, and was 2 applications away from being funded. Town staff will reapply on March 5, 2014 for the pedestrian bridge GOCO grant. Staff is working with Davis Engineering to complete final design by the end of March, so that the project is shove-ready in preparation for a funding award. Additional bridge designs are being considered the include a 10 foot wide walking deck vs a an 8 foot wide, and a mid-span observation deck similar to the new river walk bridges installed in Durango – arched structure designed by Big R an instate company from Greeley.

**Town to Pagosa Lakes Trail projects -**

*The East Phase segment is between 8th and 10th Street:*

- Preliminary Plans have been approved by CDOT.
- The right-of-way (ROW) plans are waiting title commitments for the property's we will need easements from.
- Once CDOT approves ROW plans, we can begin property acquisitions through the Federal Uniform Act.
- Final Plan CDOT review is anticipated in late February.
- Potential ad date for construction bids could be early June.
- Construction could begin in August 2014 and be complete by the end of the 2014 construction season.
- The Library will replace an underground culvert this spring prior to our project. This will ensure the new trail is not affected.

*The West Phase trail segment is between Village Drive and Aspen Village Drive:*

- Surveying has been completed and ROW plans have been drafted, waiting on title commitments for needed easements and property easement acquisitions.
- Preliminary Plans anticipated being complete by end of March 2014, with CDOT review by end of April 2014.
- Once Preliminary plans are approved, final planning will proceed with anticipated CDOT review by the end of June 2014.



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- Potential ad date for construction bids could be in July 2014 with construction starting in August 2014. It is a possibility this project will be deferred for construction in early 2015.

**Elementary School Traffic Issues** - The Mayor assigned two Town Council members to serve on a committee to help identify potential traffic flow design revisions to eliminate queuing onto Hwy 160. Both Trustees Cotton and Volger were assigned to participate. The next joint meeting is anticipated in April 2014. The County, Town and School district will meet to discuss funding for improvements and staff to direct traffic.

**Majestic Drive CMAQ Paving Project**- 1200 lineal feet of Majestic drive between growing spaces and Square Top Circle will be paved with CMAQ funds this summer. This project has been staged for 5 years and is anticipated to receive CDOT final plan approval in early 2014 and construction completion by the end of 2014.

**Reservoir Hill Gazebo** - Concrete foundation and floor has been installed and erection of the structure will begin soon.

**C. Planning Commission** – Discussion was opened for non-agenda items: none suggested.

**D. Upcoming Town Meeting Schedule** is as follows:

Next Regular Scheduled Planning Commission Meeting:

- ~Tuesday, February 25, 2014 @ 5:30 pm in Town Hall
- ~Tuesday, March 11, 2014 @ 5:30 pm in Town Hall

Next Regular Scheduled Historic Preservation Board Meeting:

- ~Wednesday, February 26, 2014 at 5:15pm in Town Hall
- ~Wednesday, March 12, 2014 at 5:15pm in Town Hall

Next Regular Town Council Meetings:

- ~Thursday, February 20, 2014 at noon in Town Hall
- ~Tuesday, March 4, 2014 at 5pm in Town Hall

**X. Adjournment**- Upon motion duly made, the meeting adjourned at 6:40 PM.

Kathie Lattin, Planning Commission Chair