



**Town of Pagosa Springs  
Planning Commission, Board of Adjustments & Design Review Board  
Regular Scheduled Meeting Minutes**

**March 10, 2015**

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

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- I. **Call to Order / Roll Call:** Commission Chair Ron Maez called the meeting to order at 5:30 PM. Commissioners Kathie Lattin, Peter Adams, Heidi Martinez were present with Cameron Parker arriving at 6:00 pm. Alternate Planning Commissioner Natalie Woodruff was absent. Also present were Planning Director James Dickhoff, Associate Planner Margaret Gallegos, Town Mayor Don Volger, Council members David Schanzenbaker and Community Members Ed Fincher.
- II. **Announcements:** None.
- III. **Approval of Minutes:** Motion made by Commissioner Martinez, seconded by Commissioner Lattin and unanimously carried to approve the February 10, 2015 Planning Commission meeting minutes as presented.
- IV. **Public Comment:** None Received.
- V. **Board of Adjustments:** None.
- VI. **Planning Commission:**

**A. Recommendation to Town Council Regarding Location Restrictions for Marijuana Establishments:** Planning Director Dickhoff reported that the Town Council (TC) has recently expressed a majority interest in developing regulations to allow Marijuana (Retail and Medical) Establishments to operate within the Town's boundary. The current prohibition ends on June 1<sup>st</sup>, 2015, so there is motivation to complete the development and approval of such regulations before then. The TC has also expressed interest in consistency with Archuleta County's regulations. Part of the discussion regards the allowable and prohibited areas in Town where such establishments would be allowed to operate or prohibited from operating. State statute allows municipalities to develop their own allowable areas for such businesses as well as the ability to allow up to certain # of total establishments within the Town.

Currently, state regulations, as well as many other communities in Colorado (including Archuleta County), have adopted the following distance restrictions from other uses: Marijuana Establishments cannot be located within 1000 feet of any School, any licensed Day Care Facility, any Church, or dedicated Public Park, whether inside the Town in adjacent County boundaries. Also, a 250 foot buffer required from residentially zoned areas, whether inside the Town in adjacent County boundaries. Legal Counsel Bob Coles' office has provided Town Council a memo reviewing some of the decisions Town Council will be considering regarding Marijuana Establishments – copy was provided to the Planning Commission.

Planning Director Dickhoff noted that the State defines the following seven (7) different types of Marijuana Establishments:



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1. Medical marijuana center - a business that sells medical marijuana to registered patients or primary caregivers but is not a primary caregiver.
2. Medical marijuana-infused products manufacturer – a business that manufactures a product containing medical marijuana for use or consumption by a patient. Examples of products include edibles, tinctures and ointments.
3. Optional premises cultivation operation – a business associated with a medical marijuana center or a medical marijuana-infused products manufacturer for a location in which the licensee is authorized to grow and cultivate medical marijuana.
4. Retail marijuana stores - a business that sells retail marijuana to adults over 21 years of age.
5. Retail marijuana products manufacturers - a business that manufactures a product containing retail marijuana for use or consumption by an adult over 21 years of age.
6. Retail marijuana cultivation facilities - a business that grows and cultivates retail marijuana. Unlike medical marijuana optional premises cultivators, a retail marijuana cultivation facility does not have to be directly linked to a retail store or products manufacturer.
7. Retail marijuana testing facilities – a business that operates a lab to test the quality and components of retail marijuana and retail marijuana products.

Archuleta County allows all types of establishments **except for retail marijuana testing facilities and retail marijuana products manufacturers**, which are not allowed due to the nature of some of the hazardous products used in the production of such products. In the case of #3, Optional Premise Growing Operations and retail marijuana Cultivation Facilities (marijuana growing operations), the county only allows these operations if: the growing operation is in connection with the operation of a Retail marijuana center, and, where the growing center and the Retail marijuana center have identical ownership, and, where the operations are on the same or adjacent parcels for property tax purposes. Archuleta County allows marijuana establishments in commercial and industrial zoning districts only, consistent with many other communities in Colorado.

The Commission was very open with their questions toward the Town Council. It was noted that the issue is very controversial even though Archuleta County's vote of over 50% voted to decriminalize use of marijuana so the TC voted 4:3 to move forward with developing regulations and beginning with A/C ordinance as template to begin review. There are so many issues to identify, discuss and address and regulations are need to maintain control within Pagosa Springs. The TC can decide on locations & number and will be taking PC recommendations under consideration. It was further noted that standard template for locations are being taken into consideration to develop regulations from other communities. The TC reiterated that they would like to hear from PC on possible locations taking into geography of town and any zoning



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interests. The Commission discussed the zoning of commercial for live/work units, industrial, mixed use-town center, and other mixed use-corridors that would allow residential. The sales tax collected from sales is a 50/50 split between the County and Town regardless of the location of the business. It was further noted that another advantage of regulation is that the State charges 10% and gives back to the community for regulating to cover costs such as administration and enforcement. Comments were also received expressing concern with the effects and image that it may create for Pagosa Springs. It was further commented that Archuleta County has two existing establishments and that that town should prohibit the establishments and allow the County to deal with the issues and the Town would still collect its share of tax. Future issues may arise but doesn't feel that the establishments are needed to attract tourists. Other discussion included not allowing within historic downtown, limit the number of establishments, distances may be too limiting but feels that it needs to be addressed in the LUDC, vote of the Town citizens, and possible effect on the image of Town. Several members supported new establishments in Town and noted that it is legal in Colorado with monetary gains.

**MOTION BY COMMISSIONER PARKER, SECOND BY COMMISSIONER ADAMS AND MOTION CARRIED (WITH COMMISSIONERS MARTINEZ & MAEZ OPPOSED) TO PROHIBIT MARIJUANA ESTABLISHMENTS WITHIN THE TOWN'S BOUNDARY, GIVEN: 1) THE SIZE OF OUR ENTIRE COMMUNITY IN RELATION TO THE EXISTING THREE OPERATING COUNTY BUSINESSES; 2) THE EXISTING THREE BUSINESS ARE IN VERY CLOSE PROXIMITY TO TOWN NOW, PERMITTED BY THE COUNTY; 3) THE FACT THAT THE SALES TAXES COLLECTED BY THE THREE ESTABLISHMENTS ARE SHARED WITH THE TOWN, AND ALLOWING ADDITIONAL ESTABLISHMENTS, MOST LIKELY WOULD NOT RESULT IN ADDITIONAL OVERALL SALES TAX COLLECTIONS FROM SUCH BUSINESS CATEGORY; 4) THE FACT THE EXISTING THREE ESTABLISHMENTS ARE IN THE CORRECT ZONING LOCATIONS AND NOT ON MAIN STREET OR ALONG THE HWY CORRIDOR; AND 5) BASED ON COMMON DISTANCE RESTRICTIONS, THERE ARE VERY FEW AREAS THAT WOULD ALLOW SUCH ESTABLISHMENTS WITHIN THE TOWN.**

**B. Recommendation to Town Council Regarding Cargo Shipping Container Regulations:** Planning Director Dickhoff reported that on December 02, 2014, the Town Council directed staff and the Planning Commission to develop LUDC revision recommendations for Town Council's consideration regarding the Allowable uses and placement of Cargo Shipping Containers (CSC). On January 13, 2015, the PC tabled this discussion until January 27, 2015 and then continued the discussion to a February 10<sup>th</sup> work session. A follow up work session was conducted on Monday, March 2<sup>nd</sup>, resulting in some consensus on certain aspects of the discussion. The Commission discussed the matter and noted that it would make a recommendation to Town Council for their consideration. The general outline of allowances and prohibitions will be provided to Town Council for approval before staff embarks on preparing LUDC language revisions and additions.

**MOTION MADE BY COMMISSIONER LATTIN, SECONDED BY COMMISSIONER MARTINEZ, AND MOTION CARRIED (WITH COMMISSIONERS PARKER AND ADAMS OPPOSED) TO APPROVE A RECOMMENDATION TO TOWN COUNCIL TO CONSIDER APPROVING THE FOLLOWING REGARDING CSC'S:**



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- 1. REQUIRE ALL PERMANENT ACCESSORY STRUCTURES TO BE CONSISTENT IN DESIGN AND APPEARANCE AS THE PRIMARY STRUCTURE.**
- 2. REQUIRE A BUILDING PERMIT FOR ALL PERMANENT ACCESSORY STRUCTURES, WITH NO FEE CHARGED FOR STRUCTURES UNDER 120 SQ. FT.**
- 3. ALLOW THE PERMANENT PLACEMENT OF CARGO SHIPPING CONTAINERS IN LIGHT INDUSTRIAL ZONED DISTRICTS.**
- 4. ALLOW THE TEMPORARY PLACEMENT FOR UP TO TWO-180 DAY PERIODS, WITH AN ADMINISTRATIVELY APPROVED TEMPORARY USE PERMIT (TUP), IN ALL DISTRICTS. USE MUST BE ASSOCIATED WITH THE PRIMARY STRUCTURE OF THE PROPERTY.**
- 5. ALLOW THE TEMPORARY PLACEMENT OF CSC'S RELATIVE TO AN ACTIVE BUILDING PERMIT, WITH AN ADMINISTRATIVELY APPROVED TUP. USE MUST BE ASSOCIATED WITH CONSTRUCTION ACTIVITIES.**
- 6. ALLOW THE PERMANENT PLACEMENT AND USE WITHIN THE COMMERCIAL (C), MIXED USE CORRIDOR (MU-C) AND MIXED USE TOWN CENTER (MU-TC) DISTRICTS (WITH THE OVERLAY DISTRICT EXCEPTION IN #7 BELOW), LIMITING TO NO MORE THAN 25% OF THE PRIMARY STRUCTURE SQUARE FOOTAGE AND NO MORE THAN 320 SQUARE FEET OF CARGO CONTAINERS (TWO 8' X 20' CONTAINERS OR ONE 8' X 40' CONTAINER). AS IN #1 ABOVE, THE CSC SHALL BE CONSISTENT IN DESIGN AND APPEARANCE AS THE PRIMARY STRUCTURE.**
- 7. WITHIN THE DOWNTOWN BUSINESS AND LODGING OVERLAY DISTRICT AND DOWNTOWN EAST VILLAGE OVERLAY DISTRICT, ALLOW THE PERMANENT PLACEMENT AND USE, LIMITING TO NO MORE THAN 25% OF THE PRIMARY STRUCTURE SQUARE FOOTAGE AND NO MORE THAN 160 SQUARE FEET OF CARGO CONTAINERS (ONE 8' X 20' CONTAINER). AS IN #1 ABOVE, THE CSC SHALL BE CONSISTENT IN DESIGN AND APPEARANCE AS THE PRIMARY STRUCTURE.**
- 8. PROHIBIT THE PERMANENT PLACEMENT AND USE IN THE OPEN SPACE DISTRICT (PARKS).**
- 9. ALLOW THE PERMANENT PLACEMENT AND USE WITHIN THE PUBLIC/QUASI PUBLIC DISTRICT, LIMITING TO NO MORE THAN 160 SQUARE FEET. AS IN #1 ABOVE, THE CSC SHALL BE CONSISTENT IN DESIGN AND APPEARANCE AS THE PRIMARY STRUCTURE.**

**MOTION MADE BY COMMISSIONER LATTIN, SECONDED BY COMMISSIONER MARTINEZ AND CARRIED (WITH COMMISSIONERS PARKER AND ADAMS OPPOSED) TO LIMIT THE CARGO CONTAINER SIZE RESTRICTIONS TO ALLOW THE PERMANENT PLACEMENT AND USE IN RESIDENTIAL ZONE DISTRICTS, LIMITING THE CDSC SIZE TO NO MORE THAN 80 SQUARE FEET - 8'X10', PROVIDED THAT THE CARGO CONTAINER IS CONSISTENT IN THE DESIGN AND APPEARANCE OF THE PRIMARY STRUCTURE IN WHICH MAY REQUIRE INSTALLATION OF SIDING AND ROOF, PAINTED TO MATCH THE PRIMARY STRUCTURE, ROOFED, SIDED AND/OR SIMILARLY ROOFED WITHIN AN AREA SUCH AS A CARPORT STRUCTURE.**



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**C. Discussion and Possible Recommendation to Town Council regarding Electronic Message Center Sign Regulations:** The Town has had interest from business owners to install and use electronic message center signs (EMC's) for some time now. The first EMC sign was installed by the Town on the Bell Tower located at the SE corner of Lewis Street and Hwy 160. Town staff has from time to time received requests to remove the sign and questions into its actual effectiveness. The first business sign was installed at the Quality Inn Resort located at 3500 W Hwy 160 in 2013. Since this installation, there has been substantial discussions whether the Town should consider prohibiting these signs or regulating how they are used. Town staff had originally received a number of complaints about this sign, and worked with the owner to modify its operation for compliance with the town's signs code, mainly in respect to the flashing effect created when messages change.

Staff has conducted research and provided to the Commissioners the information about other communities around Colorado, and how they regulate EMC signs, with regulations ranging from outright prohibitions to extensive lists of specific regulations. The Town's Historic Preservation Board was given an opportunity to comment on this issue as it relates the Historic and Downtown Districts, and has recommended prohibiting EMC signs through-out the entire downtown – both the Historic District and Zone 1 in preparation for future expansion. The Town Council has approved the Planning Commission working on this issue and bringing a recommendation back for their consideration.

The Commission discussed the EMC signs in comparison with back lit signs and concluded that the difference is in its lighting and appearance. The Commission was in agreement to prohibit the EMC in the Historic District but was in favor of allowing small window displays inside the windows rather than sandwich boards. There was discussion that the Electronic Message Center Signs are not supported by comp, downtown, master plans – direction was not included for the signs to be downtown – zone 1 but uptown fine. The Commission felt that the community businesses needed to be protected to level the playing field and that several communities such as Durango does not allow.

**MOTION BY COMMISSIONER ADAMS, SECONDED BY COMMISSIONER PARKER, MOTION FAILED (WITH COMMISSIONERS MARTINEZ, LATTIN AND MAEZ OPPOSED) TO PROHIBIT EMC SIGNS IN SIGN ZONE 1.**

**MOTION BY COMMISSIONER LATTIN, SECONDED BY COMMISSIONER MARTINEZ AND MOTION CARRIED (WITH COMMISSIONERS ADAMS AND MAEZ OPPOSED) TO ALLOWING EMC SIGNS IN SIGN ZONE 1 AND 2, WITH SPECIFIC RESTRICTIONS ON THEIR OPERATION, AND PROHIBITING THEM IN THE RESIDENTIAL AREAS AND THE HISTORIC DISTRICT. THE OPERATION OF MC SIGNS IN SIGN ZONE 2 INCLUDES THE FOLLOWING REQUIREMENTS:**

- **NO MORE THAN ONE MESSAGE CHANGE EACH 5 MINUTE PERIOD. (OR MORE RESTRICTIVE)**
- **REQUIRE A 5 SECOND PHASE-OUT AND 5 SECOND PHASE-IN FOR CHANGING MESSAGES. THIS WOULD HELP ELIMINATE THE MESSAGE TURNING OFF AND**



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THE NEW MESSAGE TURNING ON, REDUCING THE PERCEPTION THE SIGN IS FLASHING.

- LIMIT THE LIGHT LEVEL TO 0.3 FOOT CANDLES.
- EXEMPTION FOR TEMPERATURE/TIME DISPLAY SIGNS, MEETING LIGHT LEVEL TO 0.3 FOOT-CANDLES.
- EXEMPTION FOR GAS STATION PRICING SIGNS, MEETING LIGHT LEVEL TO 0.3 FOOT-CANDLES.
- LIMIT EMC'S TO FREESTANDING AND WALL SIGNS ONLY (TO BE DEFINED).
- RESTRICT EMC SIGNS NO MORE THAN 30-50% PERCENTAGE OF TOTAL ALLOWABLE SIGNAGE, OR, RESTRICT TO UP TO A SQUARE FOOT SIZE FOR FREESTANDING AND WALL SIGNS.
- STAFF TO PROVIDE A DEFINITION FOR EMC'S
- PROHIBIT IN SIGN ZONE 1, HISTORIC DISTRICT AND RESIDENTIAL DISTRICTS.
- EMC SIGN REGULATIONS SHALL APPLY TO ALL EMC SIGNS LOCATED INSIDE A BUILDING AND VISIBLE FROM A PUBLIC SIDEWALK OR PUBLIC STREET.
- LIMIT TO NO MORE THAN ONE EMC SIGN PER PROPERTY.
- EMC SHALL NOT BE THE PREDOMINANT ELEMENT OF ANY SIGN
- EMC MESSAGES LIMITED TO ONE COLOR A WITH ONE BACK GROUND COLOR (TWO COLORS TOTAL).
- EMC SIGNS MUST BE PROVIDED WITH AUTOMATIC DIMMING SOFTWARE OR SOLAR SENSORS TO CONTROL BRIGHTNESS FOR NIGHTTIME VIEWING AND VARIATIONS IN AMBIENT LIGHT.
- ANIMATION SHALL BE PROHIBITED.

Planning Director Dickhoff will return to the Commission with proposed LUDC language for final review and recommendation to the Town Council.

**VII. Design Review Board: None.**

**VIII. Public Comment: None Received.**

**IX. Reports and Comments:**

**A. Planning Commission – None**

**B. Planning Department Report** –Planning Department Director Dickhoff reviewed his Department Report as follows: TOWN COUNCIL REGULAR MEETINGS: At the March 03, 2015 Town Council meeting, the Council asked the PC to provide recommendations on allowable locations for Marijuana Establishments. The TC also scheduled a meeting regarding marijuana businesses on Friday, March 13, 2015 at 7:30am in Town Hall.

**HISTORIC PRESERVATION BOARD (HPB) UPDATE:** The Next HPB meeting is on March 11, 2015 at 5:15pm in Town Hall. Staff is preparing a State Historical Fund grant application for the restoration of the historic Water Treatment facility located at 96 1<sup>st</sup> Street. Additional Projects the HPB is working on include:

- 1) A New Mural on Main project,
- 2) Interpretive content information,
- 3) Mary Fisher Statue and recognition project,
- 4) Historic preservation month (May) activities and public forum presentations.



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**CRESTVIEW DRIVE CMAQ PAVING PROJECT** Staff received a request for CMAQ paving projects from CDOT on January 12, 2015. Partial funding for paving 2000 lineal feet of Crestview Drive will be available as soon as July 1<sup>st</sup>, 2015 with the remaining funding available after July 1<sup>st</sup> 2016. Staff has initiated surveying with Davis Engineering, to identify the scope of the project. Currently, Staff has estimated the project to be under \$400,000.00, if the current road alignment is within the platted ROW. Additionally, CDOT has awarded CMAQ funding to the town for the following requests: Paving Mesa Drive in 2016-2017, paving the east leg of Majestic Drive in 2018.

**200 BLOCK PAGOSA STREET SIDEWALK IMPROVEMENT PROJECT:** Town Council approved a budget allocation for a sidewalk replacement project along the south side of Hwy 160 (Pagosa Street) between 2<sup>nd</sup> Street and 3<sup>rd</sup> Street. Davis Engineering has completed the plans, which are now available for construction bids. It is expected the project will commence in early April and be completed by mid-June.

**PIEDRA STREET 2015 REPAVING PROJECT:** Town Council approved staff to move forward with final plans and advertising for bids. The 2015 budget which included a repaving project for Piedra Street from S. 8<sup>th</sup> Street to 10<sup>th</sup> Street. It is expected the project will be constructed during summer school break. Davis engineering is completing construction plans now.

The project will also include a sidewalk along the north side of the street, which will provide pedestrian sidewalk connectivity to the Elementary School's path along the east side of their fields, providing a safe route to school. The School has indicated the public use of this trail is acceptable.

**COBBLESTONE TOWNHOME PROJECT AND YAMAGUCHI LANE:** The Cobblestone Townhome project located on the improved 4<sup>th</sup>/5<sup>th</sup> Alley is still progressing. Signage for the to be one-way alley is expected in the near future. Yamaguchi lane will then be a one-way street, north to south direction.

**6TH STREET PEDESTRIAN BRIDGE:** It is currently hoped that the project will be open to the public by March 30, 2015. Landscaping will be completed as weather permits. Working on stone veneer.

**WALL MART:** Staff has recently reached out to WalMart for an update on anticipated opening date. They are currently anticipating opening on April 22, 2015. The Town Planning Department is working with the client for LUDC compliance of their parking lot lighting. It is expected that Walmart will request a Temporary Certificate of Occupancy (TCO) that will allow them to begin accepting merchandise inventory and setting up the store interior, in preparation for the grand opening scheduled for April 22nd. To be eligible for a TCO, the Building Official will inspect the project to ensure no life safety issues are outstanding. Also, the project Landscaping will not be able to be installed until the Spring of 2015, which will require Walmart to submit a Performance Bond equal to the expenses with completing the entire landscaping plan. Staff continues to work with Walmart to remedy line of sight issues from an existing residence to the south loading dock. A solution is close at hand.

**CDOT:** The next CDOT quarterly meeting set for March 12. Any issues or thought's for consideration at this meeting should be directed to the Planning Director or Town Manager.

**C. Upcoming Scheduled Town Meetings are as follows:**

Next Scheduled PC Meetings:

- ~ Tuesday, March 24, 2015 @ 5:30pm in Town Hall, Regular Meeting.
- ~ Tuesday, April 14, 2015 @ 5:30pm in Town Hall, Regular Meeting.

Next Regular Scheduled Historic Preservation Board meetings:

- ~ Wednesday, April 15, 2015 at 5:15pm in Town Hall.



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~ Wednesday, May 13, 2015 at 5:15pm in Town Hall.

**Next Regular Town Council Meetings:**

- ~ Friday, March 13, 2015 at 7:30am in Town Hall, Special meeting on Marijuana Establishments.
- ~ Thursday, March 19, 2015 at 5pm in Town Hall.
- ~ Tuesday, April 7, 2015 at 5pm in Town Hall.

**Next Regular Parks and Recreation Board Meeting:**

- ~ Tuesday, March 10, 2015 at 5:30 pm in Town Hall.
- ~ Tuesday, April 14, 2015 at 5:30 pm in Town Hall.

X. **Adjournment**- Upon motion duly made, the meeting adjourned at 8:20 PM.

  
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Ron Maez, Planning Commission Chair