



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

August 26, 2014

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

- I. **Call to Order / Roll Call:** Commission Chair Kathie Lattin called the meeting to order at 5:30 PM. Commissioners Ron Maez, Heidi Martinez and Peter Adams were present. Commissioners Natalie Woodruff and Cameron Parker were absent. Also present were Town Manager Greg Schulte, Planning Director James Dickhoff, Associate Planner/Certified Permit Technician Margaret Gallegos, Town Tourism Committee Director Jennie Green and property/community members Ed Fincher and Jerry Lucero.
- II. **Announcements:** None
- III. **Approval of Minutes:** Motion made by Commissioner Martinez, seconded by Commissioner Maez and unanimously carried to approve the August 12, 2014 Planning Commission meeting minutes as presented.
- IV. **Public Comment:** 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. **Update on Vacation of remaining portion of 6th/7th Alley right-of-way (ROW) between Navajo and Piedra Streets.** Planning Director Dickhoff reported that, on July 29, 2014, the Planning Commission approved a recommendation to Town Council to *“Approve the vacation of the 6th/7th Alley Public Right-of-Way between Navajo Street and the NE corner of Lot 8X with the additional recommendation that Town Council move forward with the property owner to obtain a formalized agreement for the 6th Street road right-of-way from the cliff area down to and through 6th Street.*

Additionally, staff was directed to research the status of the south portion of Piedra Street adjacent to this alley for the status as to if a vacation of ROW has been executed. This will need clarification due to the northern portion being vacated and determine if there is an island of the 6/7th Alley that would require vacation. Additionally, the Piedra Street ROW is believed to have a drainage easement, which may not be recorded. Based on the status of the Piedra Street ROW vacation, direction from Town Council weather or not to proceed with the vacation at Town's expense is desired prior to moving forward with such effort, however, staff is still investigating the documentation of the vacation of Piedra Street.

If the Town proceeds with vacating a public ROW without an application from a private party to do so, the fiscal impact to the Town would include the costs associated with our attorney preparing an ordinance for the vacation and the professionally developed exhibits, County recordation fees, and public notifications. These costs could exceed \$1,500. Dickhoff further noted that the required public notification for ROW vacations are as follows: 1) published in the Sun newspaper 15 days prior to the PC meeting; 2) sign posted on the property 15 days prior to



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the PC meeting; and 3) notification to properties within 300 feet mailed 15 days prior to all public hearings.

Jerry Lucero, property owner at 274 S 7th Street, commented that in 1988 the Town vacated the entire road and right-of-way - 70' but then later took back 25' for a utility easement so that the Town would maintain the drainage ditch and culvert. The Lucero's have maintained the remainder of the vacated property.

Dickhoff reported that staff research is in process and has identified two ordinances that vacated 10' on north side and then 25' secondary variance – for a total of 35' on the north side of Piedra Street. Upon any additional findings, the information will forward to the attorney for an analysis presentation to Planning Commissioner. Staff will continue to look into the matter and will bring the results of research to the upcoming Commission meeting with a recommendation and seeking further direction.

B. Possible Land Use and Development Code (LUDC) revisions considered for recommendation to Town Council including: cargo shipping containers, metal sided buildings, Minimum Density Requirements in R-18 zoning district, Reducing minimum lot size in R-12 and R-18 zone district and LED Variable Message Signs. It is recommended that staff take the cargo container information to the Town Council's next meeting and request input, suggestions and direction for the Planning Commission. The Commission consensus was to have a full-day work session on Monday, September 15 beginning at 8:00 AM to review and discuss the pros and cons of the other topics – location to be determined.

C. Vacant Planning Commission Regular Member Seat. Planning Department Director Dickhoff reported that staff placed advertisements for letters of interest for the Planning Commission open seat in the Sun newspaper, Pagosa Daily Post, KWUF Radio and the Town's website. Dickhoff also reported that Commissioner Cameron Parker has responded that he will be available through the winter, but returning to Haiti during next summer and Andre Redstone is interested in regular Member seat - he operates a local business and is in process of a lease to purchase agreement for Town property.

D. Vacation of Public Utility Easements at 2045 Eagle Drive in conjunction with Lot Consolidation - As requested by the property owner, the issue was removed from the agenda.

E. Vacation of Public Utility Easements at 209 Harman Drive in conjunction with Lot Consolidation. The Town received an application for a lot consolidation for Lots D-1, D-2, D-3 & D-4 of the Harman Park Subdivision, 209 Harman Drive, the location of the Pagosa Bible Church. As part of the lot consolidation, the perimeter Public Utility Easements (PUE) for Lots D-1, D-2, D-3 & D-4 of the Harman Park Subdivision are being requested to be vacated. This is a typical request for lot consolidations, which renders the entire lot as developable with no interior easements to build around. There are no utilities installed in the PUE's being requested



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for vacation. The new consolidated lot would be required to provide 10' wide perimeter PUE's for the general installation of public utilities by a Town approved public utility provider.

Planning Department Director Dickhoff reported that the Town has historically vacated PUE's with no installed utilities, with a plat note on the Consolidation Plat, however, this practice has been challenged by some utility providers and from a few surveyors. The challenge is that the utility companies own the easement and they should be required to approve and quit claim deed the easement. The Town's attorney disagrees as the Town in essence controls the PUE's because the Town approves which utility providers operate and install public utilities within Town boundaries. Though the Town's attorney has supported the Plat note vacation in the past, after further review and the challenge from some utility providers, it is now suggested the Town vacate PUE's under the same process as vacating Town rights-of-way. This vacation process requires the Planning Commission to hold a public hearing, and make a recommendation to Town Council for their consideration in approving a vacation with two readings of an ordinance, at public hearings.

Dickhoff noted that the Land Use and Development Code (LUDC) section 2.4.3.D, outlines the application requirements and the approval criteria for considering an "Application for Vacation of Public Easements". The "APPROVAL CRITERIA" is set forth in section 2.4.3.D.2.b.(ii) and staff comments are as follows:

- (1) The vacation is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan; ***Staff's Comments: The Public Utility Easement (PUE) vacation is not inconsistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan.***
- (2) The land to be vacated is no longer necessary for the public use and convenience; ***Staff's Comments: The PUE vacation is no longer necessary for the public use and convenience because there will be a new public utility easement platted on the Lot Consolidation Plat, ensuring Public Utility Access to the lots adjoining to the north of the subject properties.***
- (3) The vacation of a roadway that exists by right of usage shall occur only if the land adjoining said roadways is left with an established public road or private access easement connecting said land with another established public road; ***Staff's Comments: The adjoining Lots will have use of the new Public Utility Easements created on the Lot Consolidation Plat.***
- (4) The vacation will not leave any land-locked parcels; and ***Staff's Comments: No parcel will be rendered land-locked by the proposed vacation of PUE.***
- (5) The vacation will not adversely impact the health, safety and/or welfare of the general community, or reduce the quality of public facilities or services provided to any parcel of land, including but not limited to police/fire protection, access, and utility service. ***Staff's Comments: The vacation of PUE will not adversely impact the health, safety, and/or welfare of the general.***

Dickhoff noted that there is no fiscal impact to the Town and the public notification was as



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follows: 1) published in the Sun newspaper 15 days prior to the PC meeting; 2) sign posted on the property 15 days prior to the PC meeting; and 3) notification to property owners within 300 feet mailed 15 days prior to the PC meeting.

Planning Commission considered and discussed the comments and evidence presented at the public hearing, staff report, and recommendation of the Director. The following action was taken:

Motion by Commissioner Martinez, Seconded by Commissioner Maez and unanimously carried to recommend to the Town Council that it approve the vacation of the perimeter Public Utility Easements associated with Lots D-1, D-2, D-3 & D-4 of the Harman Park Subdivision , contingent on new perimeter Public Utility Easements being dedicated on the new Lot Consolidation Plat.

VII. Design Review Board:

A. Variance Request for increasing allowable Signage at 105 Hot Springs Boulevard, The Visitor’s Center. Planning Department Director Dickhoff reported that, on August 01, 2014, the Town received an Application for a Variance, requesting an increase for the allowable signage for the Visitors Center located at 105 Hot Springs Blvd. Allowable signage is based on the lineal feet of street frontage. The subject property has 70 feet of street frontage allowing a maximum of 70 sq. ft. in signage. The proposal is for a freestanding sign to replace the existing freestanding sign - the new sign is proposed at 16 square feet in size. The proposed wall signs include signage on each roof gable for a total of 154 square feet. In summary, a total of 170 sq. ft. of signage is being requested for the Visitors Center property - a Town owned facility.

LUDC section 6.12.4.A. gives the Design Review Board the Authority to grant a variance for Sign Code Regulations. Staff supports the variance request given the following:

- 1) The Town owns and operates the Visitors Center for the general benefit of the entire community, not a specific business or interest.
- 2) The facility is a public facility, open to the public and will advertise public restrooms.
- 3) The facility is not in competition with any other businesses.
- 4) The facility exists to support all local businesses.

The Design Review Board may approve a variance only upon finding that all of the criteria set forth in section 2.4.11.C.2.a have been met. Staff comments are outlined as follows:

(1) There are unique physical circumstances or conditions, such as size, irregularity, narrowness or shallowness of lot, location, surroundings, or exceptional topographical or other physical conditions peculiar to the affected property; Staff’s Comments: There is a unique condition in that the Visitors’ Center serves the entire community and is not in competition with another visitors center.



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- (2) The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located; ***Staff's Comments: The unusual condition does not exist throughout the district/neighborhood.***
- (3) Such physical circumstances or conditions were not created by the applicant or any previous owner of the property; ***Staff's Comments: The circumstance was not created by the applicant.***
- (4) Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Land Use Code because such conformance with the Code would deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; ***Staff's Comments: Being a tourism driven economy, the Victors center serves the entire community.***
- (5) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and ***Staff's Comments: The variance will not alter the essential character of the neighborhood, since the visitors center has existed at this location since 1990.***
- (6) The variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Land Use Code that are in question. ***Staff's Comments: Providing signage around all sides of the building provides visitors with clear understanding where the Visitors' Center is located.***
- (7) No variance shall be granted that violates the intent of this Land Use Code or its amendments. No variance may make any changes in the terms of this Land Use Code provided the restriction in this subsection shall not affect the authority to grant variances pursuant to this Section 2.4.11. ***Staff's Comments: This variance request does not violate the intent of the LUDC.***
- (8) No variance shall be granted from any written conditions attached by another decision-making body to the approval of a conditional use permit, subdivision plat, or site plan. ***Staff's Comments: No previous written conditions exist by another decision-making body.***
- (9) No variance shall be granted if the conditions or circumstances affecting the applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations. ***Staff's Comments: Pagosa Springs has only one Visitors' Center operated by the Town.***
- (10) No variance may authorize a use other than those permitted in the district for which the variance is sought; also, an application or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which zoning request for any parcel of property or portion thereof has not been finally acted upon by both the Planning Commission and by the Town Council. ***Staff's Comments: The Visitors' Center is an allowable use.***
- (11) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and ***Staff's Comments: The variance will not alter the essential character of the neighborhood, since the Visitors' Center has existed at this location since 1990.***



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(12) The variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Land Use Code that are in question. *Staff's Comments: Providing signage around all sides of the building provides visitors with clear understanding where the Visitors' Center is located.*

Dickhoff reported that there is no fiscal impact to the Town regarding the variance request; the signs will be expensed through the Town Tourism Committee budget. Public notification was as follows: 1) published in the Sun Newspaper 15 days prior to the PC meeting; 2) sign posted on the property 15 days prior to the PC meeting; and 3) notification to property owners within 300 feet mailed 15 days prior to the PC meeting.

The Design Review Board discussed the Variance Application and the request to increase the allowable signage at 105 Hot Springs Boulevard and took the following action:

Motion made by Commissioner Maez, Seconded by Commissioner Martinez, and unanimously carried to approve the Variance Application requesting an increase in the allowable signage for 105 Hot Springs Blvd for up to 170 square feet of total exterior signage.

VIII. Public Comment:

A. Opportunity for the public to provide comments and to address the Commission on items not on the agenda – none received.

IX. Reports and Comments:

A. **Town Manager** – None.

B. **Planning Department Report** – Planning Department Director Dickhoff noted that the Department and Town to Lakes trail system report will be provided to the Planning Commission during its next meeting.

C. **Planning Commission** – Discussion was opened for non-agenda items. Commissioner Maez inquired about the 5th Street Alleyway. It was noted that the specification material was approved and the project is moving forward. Commissioner Adams would like to invite the local group that is working on a downtown government authority for a 2016 election to come into the Planning Commission so that they can discuss their ideas and concepts. Dickhoff will make contact with the group and provide the Commissioner's contact so that it can be informed about upcoming meetings.

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

Next Regular Scheduled Planning Commission Meeting:

- Tuesday, September 9, 2013 @ 5:30pm in Town Hall.
- Tuesday, September 23, 2013 @ 5:30pm in Town Hall.



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Next Regular Scheduled Historic Preservation Board meetings:

- Wednesday August 27, 2014 at 5:30pm in Town Hall, web page presence work session.
- Wednesday September 10, 2014 at 5:15pm in Town Hall.

Next Regular Town Council Meetings:

- Tuesday, September 02, 2014 at 5pm in Town Hall.
- Thursday, September 18, 2014 at noon in Town Hall.

Next Regular Parks and Recreation Board Meeting:

- Wednesday, September 10, 2014 at 5:30 pm in Town Hall.

X. Adjournment- Upon motion duly made, the meeting adjourned at 7:05 PM.

A handwritten signature in blue ink that reads "Kathie Lattin".

Kathie Lattin, Planning Commission Chair