



Archuleta County Development Services Department
ARCHULETA COUNTY PLANNING COMMISSION MINUTES

Archuleta County Planning Commission Minutes, Regular Meeting January 27, 2016

The Archuleta County Planning Commission held a regular meeting on Wednesday January 27, 2016, at 6:00 PM at the Archuleta County Commissioners Meeting Room, 398 Lewis Street, Pagosa Springs, Colorado. Chairman Michael Frederick called the meeting to order at 6:00 PM.

Commissioners in attendance:

Michael Frederick, Anita Hooton, Betty Shahan, Peter Adams, and David Parker.

Staff in Attendance:

John Shepard, AICP, Planning Manager; Sherrie Vick, Planning Technician

Public in Attendance:

Denny Barber; Chip Munday, General Manager PLPOA, and Jeff Sherer and Greg Chamberlin of Black & Veatch for Verizon Wireless. There were numerous members of the public, see attached sign-in sheet.

Consent:

Minutes from the December meeting were reviewed. Motion made by Commissioner Hooton to approve the minutes as submitted. Commissioner Shahan second. Approved by a vote of 5-0.

Old Business: None.

New Business:

Barber Request for Village Service Commercial Amendment 2016 to replat lots 25, 26, 27, located on Navajo Trail Drive.

Dennis Barber, on behalf of Samuel P. and Beverly Roberts, Dennis M. Barber and John G. Fargerson, and Silverado City, LLC; have applied for Final Plat approval of Village Service Commercial Amendment 2016, a replat of Lots 26 and 27 of A Replat of Lots 26 and 27 of the Replat of Village Service Commercial, and Lot 25 of A Replat of Village Service Commercial. The proposal will re-align the common property line between 157 and 197 Navajo Trail Dr., Pagosa Springs, CO, in the Commercial (C) zoning district.

Planning Manager John Shepard presented the staff report, recommending approval with conditions.

Chairman Frederick asked if there were any questions. Commissioner Hooton asked for clarification on the easements along the new lot line. The language Mr. Shepard read was the wording that the utility company expressly asked for. Chairman Frederick asked for clarification on the utility service lines vs main lines. Mr. Shepard responded the surveyor is working directly with La Plata Electric to show where the currently installed lines are. Chairman Frederick asked if the Applicant had any comments. Mr. Barber stated that the plat is being done to represent the legal descriptions on the deeds. Chairman Frederick asked for any public comment. Hearing none he asked for a motion.

Commissioner Adams made the motion to recommend Approval to the Board of County Commissioners, of the Village Service Commercial Amendment 2016, with Findings A and B and Conditions 1- 3 of the staff report dated January 27, 2016. The Planning Commission finds that:

- a. The application does meet the review criteria for development in a Commercial (C) zone, in Section 3.1 of the Archuleta County Land Use Regulations, and
- b. The application does meet the review criteria for an Amended Plat, in Section 4.6 of the Archuleta County Land Use Regulations, and

That the Planning Commission recommend approval of the Village Service Commercial Amendment 2016, with the following conditions:

1. The Amended Plat and title shall be revised in response to the County Clerk's and Deputy County Surveyor's comments, and a mylar submitted prior to a Board of County Commissioners hearing.

2. The Amended Plat shall be revised to dedicate a 10' utility easement along the amended lot line, and for existing electric power lines.
3. Any new development or change of use will receive the proper Land Use Permit prior to commencement.

Commissioner Hooton seconded. The motion was approved by a vote 5-0.

Before opening the next public hearing, Chairman Frederick noted conflict of interest guidelines and stated that, while he lived in the Pagosa Lakes Property Owners Association (PLPOA) area he felt there was no conflict for him because he had no direct financial interest in the project. He then asked if any other members had concerns. Commissioner Hooten disclosed she rented property in the PLPOA but felt that would not be a conflict of interest. Commissioner Adams stated although he lived in the downtown area, he did own property in the PLPOA but felt there was no conflict of interest. Chairman Frederick also iterated that the Commission was not allowed to address health concerns because those are regulated by the FCC and cannot be considered in this decision.

Pagosa Lakes Telecommunication Facility Development Plan Rezoning in the PUD zone, located at 1311 Lake Forest Cir.

Black & Veatch, representing Verizon Wireless, is requesting approval to Rezone a parcel in the PUD zone to establish a Development Plan, for property owned by the Pagosa Lakes Property Owners Association known as the Lake Forest Open Space, located generally within Sections 18 and 19, T13N R2W NMPM, at 1311 Lake Forest Cir, Pagosa Springs, CO. The Development Plan will provide standards for placement of a Commercial Mobile Radio Systems (CMRS) wireless communication facility north of the lake, including a 70' monopine pole and faux wood equipment shelter, and continued recreation and open space use.

The FCC regulates communication towers and health concerns cannot be addressed locally. Also we only have 150 days to act on the application by approving or denying it in writing. If no action is taken the application is considered approved after that time frame. The project was noticed by mailings to the properties within 500 feet of the legal parcel, posted on the property and in the paper.

Cell towers are reviewed under Section 5.5.3 of the land use regulation. The project is also rezoning a PUD to establish standards in a Development Plan, as provided in Section 3.1.6 and 3.1.7. The proposal does not pose a hazard to aircraft, the tower is 22' from the property line and 90' from the nearest private property. Ice fall or debris should not be a concern. The tower is a "stealth" type monopine tower and a faux cabin exterior on the equipment building to mitigate visual impacts. The tower is of minimum height needed to be effective and will meet the requirements of the Building Department for structural integrity. In the application, Black & Veatch has demonstrated that the location meets a need and the other towers in the area cannot cover the area in which the new tower will provide service.

Applicants' Representatives, Mr. Sherer and Mr. Chamberlin from Black & Veatch, presented the project to the Commission, showing the need for the tower and how it meets the criteria for the County regulations. They also presented additional information on coverage improvement, and testimony on property values from other project areas.

After the presentation Chairman Frederick asked for questions from the Commissioners. Commissioner Hooton asked if the equipment building was a four-sided structure, which it is. Commissioner Hooton asked where the access road would be located. The representative showed the Commission that the access would start at the boat dock parking area and follow along the property line. It would be a gravel driveway only as wide as needed to service the equipment roughly once every month to once every two months after the initial build. Commissioner Hooton asked if there was another place to access. Any other access would be on Wyndham-owned property. Commissioner Adams asked about the tower and the site elevation. With the hillside, the tower would allow them to build a 70 foot tower instead of a 120 foot tower at the low elevation sites, which would cause a greater visual distraction for two reasons--the tower would be higher and there were no trees at the those sites. Also it was discussed that the branches on the ones shown in other places are high off the ground which is to prevent climbing on the tower. Commissioner Shahan inquired about lighting strikes on the tower. Mr. Sherer informed the Commission that there are measure taken in the construction so the tower is equipped with a lightning rod to prevent issues with lighting like a surge protector. Chairman Frederick asked if the items mounted on the tower or in the building would create any mechanical noise. Mr. Chamberlin responded that only the

air conditioner unit might make noise, and there will be an emergency generator on the site which will run once a week as a test. Chairman Frederick also asked for clarification on how it was determined that this would be the best location. Mr. Chamberlin showed the 4 possible sites with the target area for coverage. With a computer model they built, the site by the lake was the best for coverage and mitigating the visual concerns. Chairman Frederick asked about limiting access to the access drive to the tower from the boat ramp area. Mr. Chamberlin deferred the answer to Mr. Munday as the property owner.

Chip Munday, General Manager of the PLPOA, introduced himself and added that they received several positive comments on this tower, and people were asking for a tower to be built in the Lake Hatcher area as well. In regards to the access. PLPOA has planned to limit the access from the boat ramp area because people have been inappropriately driving across the hillside. PLPOA would do a low fence around the boat dock area and have an access point for the tower road that only Verizon would have access to. It was clarified that there would be no fence around the equipment building and tower. Discussion of the coverage areas and the increase of coverage was briefly reviewed. Chairman Frederick asked Mr. Munday, as a representative of the property owner, at what extent did the PLPOA architectural control committee review this application? Mr. Munday expressed that this property and project was not in a specific subdivision and would not usually be under that committee's review. However, they did review it for how it would blend in and have a venue for people to make comment on the project. Chairman Frederick asked if the PLPOA made an attempt to involve these neighbors. Mr. Munday stated that yes, property owners were noticed in July or August of 2014 when the PLPOA Board published the agenda for their meeting. Mr. Munday explained that at the annual meeting, in 2015, it was discussed as part of a way for the PLPOA to generate more income which this lease agreement would achieve. PLPOA wanted to help in this development because a large portion of the properties in this area are developed already. Also, the coverage area includes a large part of the Wyndham time-share program. These folks only have cell service when they are here for vacations and this would meet their needs, as well as needs of the PLPOA home owners.

Public comment was then received starting at 7pm. Chairman Frederick asked members of the public to state their name and address for the record.

Doug Call 124 Wilderness Dr. (in addition two lots on Fish Cove Ct. and 2 lot on Lake Forest Cir.) Presented a petition of surrounding residents to the Commission and stated he had noticed there were flags staked out in the area a year ago and asked people about it and no one knew what was going on. He was not informed until he saw it in the paper and saw the property posted before this hearing. The neighbors he spoke to would like to see this denied or at least postponed until they can get more information from PLPOA. He is concerned with the road they were putting in and how that would affect the use of the open space area and the quality of the area.

Richard Cline 29 Longmont Ct. Mr. Cline showed the Commission pictures from his lot to the lake and where approximately the tower would be in his view (previously submitted by letter). Mr. Cline had been working for months with an architect for the best placement of his home on this lot. With no landmarks to see where on the PLPOA property the tower is going for sure he believed his view will be of the base of the tower. Also Mr. Cline was concerned about safety around the tower because he has grandchildren and there is no fence around the tree. Ice can fall from the tower and someone could get hurt.

Silvia Cline 29 Longmont Ct. Stated the tower will be 130' outside of her future kitchen window.

Ron Sutcliff 38 Sparrow Cir. Questioned Black & Veatch statements that cell service enhances home values. Mr. Sutcliff is a surveyor in the area. He asked several appraisers he has worked with and the appraisers do not have a tool to tell how cell service affects home values.

Chip Downing 220 Antelope Ave. He moved here for the peace and quiet and purchased his lot because no one was going to be allowed to build behind him. If we rezone this will that allow more towers to be built by other cell providers? He asked Mr. Munday how much PLPOA was going to make on the lease. Mr. Monday replied \$400,000 total.

Merlin Wheeler 172 Wilderness Dr. Presented a letter to the Commission. Mr. Wheeler asked about procedures and how the approval would be done. It was explained that the Planning Commission was an advisory board. The Board of County Commissioners would make the final decision. Mr. Wheeler stated that it was his understanding that PLPOA was intended to help protect the property owners from this kind of thing. The PLPOA did not inform the property owners of this project and they only got 2 weeks' notice

from the planning department. His plea is that the Planning Commission would not move forward on this until the property owners have time to response. The project has 150 days which is up in April to have a decision.

Kim Coleman 65 Wilderness Dr. Ms. Coleman was concerned about the wetlands and asked was there an environmental impact study done?

Jason Nicholas has only a PO Box at this time. Stated that he was glad the Commission was looking at the visual impacts but we should look at the health impacts as well. Mr. Nicholas asked if the tower was going to be used for Smart Meters from the LPEA. Mr. Sherer said no, not that he knew of. Mr. Nicholas preceded to talk about health concerns and submitted a document from the FCC for local governments dated 6/2/2000 entitled "Radio Frequency Emissions Safety Rules, Procedures, and Practical Guidelines for Local Government Officials". Mr. Nicholas also asked if the Endangered Species Act has been addressed by the proposal.

Jeff Fortney 572 Antelope Ave. Cell phones are a choice people make. Are the land lines not working in that area? Why are we being asked to sacrifice our quality of life for PLPOA and Verizon to make money?

Todd Hagarty 66 Wilderness Dr. Give us the time to learn more and understand what is going on. Wildlife is there, how is it affected? The tower will affect all of us, our families, and recreational quality.

Deni Blaisch 172 Wilderness Dr. She is concerned that neighbors were not informed of this project prior to this meeting. There has been several court cases for health concerns. Opening the area up to have more towers in this location is frightening. It appears this is about the financial gain PLPOA will receive and not about the area's wellbeing. The road is of great concern, where it is going and how it is going to be blocked off.

Bill Hudson 268 Hermosa St. He lives downtown, and is a reporter for the Pagosa Daily Post. It seems that the Chairman is willing to give more time to the Applicants then the public opposed to the project and that it is an unfair practice and may be subject to a lawsuit. Mr. Hudson suggested that the project be tabled until the next meeting for the Applicant to respond to the public.

Cathy Justus 135 Dandelion CT. She understands the Planning Commission does not want to hear about health concerns but there are many studies and conclusions by the world health organization that say this radiation is harmful. She agrees with other members that the aesthetics are not very good.

Lynn Hagarty 66 Wilderness Dr. Ms. Hagarty submitted a letter stating her concerns and expressed that more time is needed to look at this project for the community and the Planning Commission.

Shanna Snard 462 Meadow Lark Dr. in Aspen Springs. She is a resident living by the most recent tower, which did increase some service in a limited area. Chairman Frederick asked her about that tower. She responded that it is just a stick that sticks up very high, you can see it on your way to Durango. It is not disguised so you know what it is. The health concerns will be proven in time. She is sensitive to them and had her smart meter removed. The community of Pagosa Springs is a rural community which is why she moved out here and that is the way she wants it to stay.

Janet Freudenberger 122 Beaver Cir. She was out helping with the petition and was not able to talk to all the neighbors but the ones she did talk to didn't know about this and were opposed to it.

Commissioner Frederick closed the public comment session and allowed rebuttal time for the Applicants to address public comments, starting at 8:15pm.

Mr. Sherer for Black & Veatch commented that towers are regulated by the FAA and FCC. There is an Environmental Impact Study being done, started about 6-7 months ago. The proposal meets the County regulations for towers and the mailing list for notices were given to Black & Veatch by the County for a 500 foot radius around the property and mailed out. No smart meters would use the tower that he is aware of. The base of the tree is only 24" in diameter with the branches out from there. The stealth pole is being done to mitigate the visual impact.

Mr. Chamberlin for Black & Veatch addressed health concerns. The tower is regulated by the FCC and they are required to have a third party come out, to test and monitor the tower's output once a year and they take that very seriously. The ice fall will be just like other trees. Snow and ice builds up and falls off.

Chairman Frederick closed the public hearing portion of the meeting and proceeded to ask Mr. Shepard a procedural question. Has the 150 days been calculated? Yes, the application was deemed complete the first of December 2015, so a decision would need to be given before the end of April. The decision would be a final written notice by the Board of County Commissioners. Mr. Shepard continued by stating our land use regulations do not require neighborhood meetings except for Oil and Gas permits. Chairman Frederick asked if there were any further questions or comments. Commissioner Shahan expressed her concern with the road location and type. Mr. Shepard clarified the access location, built to a minimal standard for the use of Verizon only.

Commissioner Adams asked how we would proceed if we postponed to get more input from the local community. Mr. Shepard responded they could continue it to the Planning Commission's next regularly scheduled meeting, but was unsure how they would adjust the scheduled Board of County Commissioner's meeting. Planning Commission Bylaws Article XI, Section 8.d. state: Continuance of the request to a date and time certain, to an event specific (which shall not be in excess of 180 days), with direction to Applicant as to specific issues that need to be resolved.

Commissioner Hooton made a motion to continue the project for the next scheduled Planning Commission meeting. Commissioner Shahan seconded. The motion to continue was approved 5-0. Commissioner Frederick stated that each side for and against would have 20 minutes in total (not each person) to present updated information at the Feb. 24th meeting under Old Business, starting at 6pm.

Mr. Shepard pointed out that this was advertised to be on the Board of County Commissioners meeting and staff will ask that they postpone it as well. There was discussion around the posted notice and the letter of notice. The project met those requirements. Commissioner Adams asked if we could ask Verizon to stake out the site. Mr. Shepard responded it was staked at one time but we can request they mark out the tower and equipment building again.

Reports/Announcements:

Mr. Shepard gave out to the Commissioners as information a copy of the PLPOA resolution regarding lot consolidations and their changes to those projects. It has generated several questions and a run on Consolidation Applications but will impact the number of consolidations in the future.

As a general information item, Mr. Shepard shared the newsletter of the American Planning Association's Small Town & Rural Planning division, for which he is editor.

February 10th special meeting reminder. This meeting is at 1:30pm for the Two Rivers Gravel Pit.

The Board of County Commissioners has asked staff and the Planning Commission to look at non-licensed marijuana cultivation regulations. This would be looking at potential regulation for individual plants per person and for Caregivers and their allowed amount of plants, to be regulated by the Land Use Regulations not ordinance. Mr. Shepard discussed with the Commissioners how they would like to consider the topic and involve the public.

Next Meeting: February 10, 2016 (Special Meeting); February 24, 2016 (Regular Meeting)

Adjourn: Commissioner Hooton moved to adjourn; Commissioner Hooton seconded; meeting adjourned at 9:00pm.

Approved this *24* day of *February*, 2016



Sherrie Vick
Planning Technician



Michael Frederick
Chairman

ARCHULETA COUNTY PLANNING COMMISSION

Meeting Attendance
January 27, 2016

Name	Address	Phone
ELAINE LUNDERGAN	140 BEAVER CIR.	731-5869
DON LUNDERGAN	140 BEAVER CIRCLE	731 5869
DICK CLINE	29 Lombard Court	505-463-7698
DENNY BARGER	117 NAVATO TRAIL DRIVE	946-3902
CHIP MUNDAY	337 BLUE HERON CIRCLE	502-7095
Kim Coleman	65 Wilderness Dr	946-9105
Brian Smith	65 Wilderness Dr	903-0466
Dave Call	125 Wildwings Ct.	946-7489
JEFFREY FOOTNEY	572 Antelope Ave	946-0522
JEFF SHOVEL	4600 S. SYRACUSE ST DANVER, CO	3979-8651
Dale & Jenny Welch	316 Antelope Ave	432-349-4362
Greg Chamberlin	3131 S Aurora Way	402-305-2775
Trish Walsh	167 Saddlecreek Dr.	970-264-0680
Cathy Justus	135 Dandelion	970-264-4462
Kimberley Bradshaw	20 Swartz ct.	770-576-8076
Steph Jennings	220 Antelope av	970 749 5742
Theresa Bussi	156 Glen Esten Dr.	970-731-5880
Todd Hervey	606 Antelope Dr.	946-2068
Bonnie O'Connor	1021 Ute drive	759-8497
Jacel Feindtbeiner	107 Reiner Cir	903-4391
Dewi Blaisch	177 Wildonmas	903-0958
Merion Wkooler	" "	903-1931