



**Archuleta County Development Services Department**  
**ARCHULETA COUNTY PLANNING COMMISSION MINUTES**

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**Archuleta County Planning Commission Minutes, Regular Meeting May 25, 2016**

The Archuleta County Planning Commission held a meeting on Wednesday, May 25, 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 6:02 PM.

**Commissioners in attendance:**

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

**Staff in Attendance:**

John Shepard, AICP, Planning Manager and Sherrie Vick, Planning Tech

**Public in Attendance:**

Jim and Paulette Harkness; Jeff and Cynthia Heitz, Applicant; Duke Eggleston, Attorney for Mr. Heitz; and Ron Ault, Applicant.

**Consent:**

Approval of the Minutes for April Meetings. Commissioner Shahan moved to approve the minutes from the April 13, 2016, meeting with the minor changes. Commissioner Parker Second. Commissioner Adams moved to approval the April 27, 2016, meeting minutes with minor correction. Commissioner Shahan seconded. Consent approved 5-0.

**Old Business:**

None.

Mr. Shepard ask Chairman Frederick if he wanted to reverse the order of the projects because the applicant for the first project was not yet present but was planning on attending the meeting. Chairman Frederick felt they should proceed with the Cimarrona project first because it did not appear to be controversial in nature. Mr. Shepard continued with his presentation of the project.

**New Business:**

**Cimarrona Ranch Water Utility CUP (PLN16-022)**

Cimarrona POA, represented by Ron B. Ault of Phoenix, Arizona, has applied for a Conditional Use Permit for the Cimarrona Ranch Water Utility, on property owned by the Christopher S. & Lorraine M. Publow Family Trust; Parcel 2 Cimarrona Ranch being a 35-acre tract located in Section 1, T35N R1W NMPM at 285 Grouse Dr., Pagosa Springs, CO. The proposal will permit expansion of the existing water treatment facility building to house two 2,500 gallon water storage tanks. Applicant has also made a concurrent request for an Administrative Variance to build less than 25' from the setback in the Agricultural/Ranching (AR) zone (an administrative approval).

This project is considered a Public Utility by our definition. A Public Utility is a Conditional Use in all zone districts. All notices were done in compliance with the regulations. The water treatment facility serves 18 parcels over 35 acers and is located out Mill Creek Rd past the High West subdivision. This expansion will provide redundancy in capacity to help serve those 18 parcels. The original facility was constructed before our current regulations so is viewed as existing non-conforming. The expansion will double the size of the building foot print and add an additional tank.

The project was put out for review. La Plata Electric, County Engineering, and Black Hills Energy had no objections to the project and there were no public comments. The Pagosa Fire Protection District noted that this property was out of the District. Staff noted that the preassigned address of the property is not the correct address for the structure and it will need to be reassigned a proper address for emergency services. The Administrative Variance for the 25' setback required a letter from the adjacent property owner. That property owner had no objections and added he looked forward to better water quality.

Based on evidence provided, staff recommended the Planning Commission find that:

- a. The application meets the review criteria for a Conditional Use Permit in Section 3.2.3.4 of the *Archuleta County Land Use Regulations*, and
- b. The application meets the required findings for a Conditional Use Permit in Section 3.2.3.5 of the *Archuleta County Land Use Regulations*, and

That the Planning Commission recommend approval of the request by Cimarrona POA for the Cimarrona Ranch Water Utility Conditional Use Permit, in Section 1, T35N R1W NMPM, at 285 Grouse Dr., with the following conditions:

1. Correct the structure address to 60 Grouse Drive.

After conclusion of the staff report, Commissioner Shahan asked why the subdivision did not go through public review. Mr. Shepard responded that these were 35 acre tracts and by statute did not need to go through public review, the plat could just be recorded. There were no more questions.

Commissioner Hooton move to recommend Approval to the Board of County Commissioners, of the request for the Cimarrona Ranch Water Utility CUP, with the Findings A and B, and condition #1 of the Staff Report. Commissioner Parker Second. The motion was approved by a vote of 5-0.

#### **A Affordable Storage CUP Minor Amendment (PLN16-036)**

Jeff Heitz, dba A Affordable Storage LLC, and represented by Duke Eggleston, Eggleston Kosnik LLC; applied for a minor amendment to his approved Conditional Use Permit (CUP) for storage and equipment rental at 4340B US Hwy 160W. Applicant's access to US Highway 160 is at CDOT's capacity limit, and would normally require improvements to Highway 160. This request would permit an approximately 1,000' long secondary access at 122 Meadows Dr., across vacant residential property also owned by the Applicant, as an alternative access. Applicant has also made a concurrent request to the Board of Adjustment for a Variance from the *Archuleta County Road & Bridge Design Standards* Sec. 27.1.7.3 Design Standards for Driveways, to construct a commercial access meeting Sec. 27.2.3 County Gravel Road Standards, which will be heard separately.

Mr. Shepard explained that the Planning Commission has only seen a couple of minor amendment to conditional use permits, as provided in the Land Use Regulations. The Planning Commission can approve site plan changes that does not affect vehicular movement, without the application going back to the Board of County Commissioners. There is some history on this project. In 2002, the first CUP was approved, and the use had been expanded since then. In 2011, the Town, County and CDOT developed an access control plan along US Highway 160 which addressed development from Vista Blvd. through downtown. New development would need to improve access on HWY 160 or develop a supporting or "backage" road system to keep additional traffic off Highway 160. Once the supporting road system was developed, direct accesses on Hwy 160 would be closed.

In 2014, the Applicant applied for a new CUP, which was approved to include indoor and outdoor storage with an office and U-Haul business. Two of the conditions were that a new site plan be submitted for Planning Department review, and the site plan needed to meet the CDOT Access Control Plan requirements. At that time, CDOT commented on review that the County should require easements for the backage road and once that was developed the access to Highway 160 would be closed. In 2015, the Applicant submitted a drainage plan and a site plan which was approved with comments. The south access noted on the site plan was excluded from Staff's approval. The Applicant received building permits for two more storage buildings at that time, with CDOT approval to modify the existing access permit.

Over the winter, the Applicant, County Road and Bridge, and the Planning Manager had conversations about what would meet the conditions of approval from 2014. The Applicant has proposed a private driveway on the adjacent residential property (which he also owns) from Meadows Dr. to a back entrance to the commercial property. This access will also be used for the Applicant's residence which he is building on the residential parcel. The address will need to be changed to accommodate the new location of the driveway.

The updated plans were sent out for review. Comments were received from CDOT, the Town, County Engineering, Fire Department, PAWSD, and neighbors, which were in the staff report. Jo Heinlein from CDOT gave options for the Applicant, to manage closing the access at HWY 160 when the supporting road system was constructed. Town Planner James Dickhoff commented that the easement for the

CDOT Access Management plan was in place from South Pagosa with development at the Hospital. The Town required the Hospital to give those easements. County Engineering recommended not approving the project, citing the Access Management plan's requirements which could be met with a 60 ft. access easement along the north boundary of the residential parcel. The Fire Department required that the driveway would need to meet the Fire code requirements for construction of the road. The Pagosa Area Water and Sanitation District noted that there was a manhole on Meadows Dr. The neighbors didn't want a commercial access so close to the residential area. The Lutheran Church also objected to having a commercial access next to their property and on a residential parcel.

Staff suggested that, should the Planning Commission accept that Applicants have provided sufficient evidence in support of their proposal, the Planning Commission find that:

- a. The application meets the review criteria for a Minor Amendment to a Conditional Use Permit in Section 3.2.3.7 of the *Archuleta County Land Use Regulations*, and
- b. The application meets the required findings for a Conditional Use Permit in Section 3.2.3.5 of the *Archuleta County Land Use Regulations*, and

That the Planning Commission approves the request by Jeff Heitz, dba A Affordable Storage LLC, for A Affordable Storage CUP Amendment, in Section 20, T35N R2W NMPM, at 4340B US Hwy 160W and 122 Meadows Dr., with the following additional conditions:

1. The address for the new access will be corrected.
2. Applicant shall record a shared drainage easement, covering the improvements shown on the existing site plan, in case the properties are ever sold separately.
3. Applicant shall record a public access easement, 60' in width adjacent to the entire northern property line of the residential property.
4. Applicant shall provide confirmation by a professional engineer that the access design and construction meet the 2009 International Fire Code, prior to any application for a certificate of occupancy.
5. Applicant shall provide an updated access permit issued by the Colorado Department of Transportation prior to any application for a building permit.

Chairman Frederick asked if Condition Three satisfied the CDOT Access Management plan. Mr. Shepard explained it was a middle ground that no one was happy with. He explained further that in the Land Use Regulations the only way to dedicate a road right of way was through a subdivision process and these parcels had not gone through that process so the easement was the best option. There was further discussion of the location of where the hospital access is located and where the Heitz easements would be. There was further discussion on what options were open to the applicant and other property owners in regard to the access on Highway 160. Chairman Frederick asked if the applicant builds the back access, would CDOT close the Highway access. Mr. Shepard said yes for the storage facility but not Selph's propane. If the applicant gave an easement to Selph's to use the back access they might do a right-in, right-out access at Highway 160.

Duke Eggleston presented the application. Mr. Eggleston clarified that A Affordable Storage LLC owns the commercial property and Jeff Heitz owns the residential property individually. He pointed out that the driveway that the applicant is proposing will meet the Road and Bridge Standards. If CDOT insisted that the highway access be closed, Mr. Heitz will not continue with his development plan for the property. Mr. Eggleston continued by saying the access issue at Highway 160 is something the Applicant would work out in detail with CDOT directly. The Applicant should not be responsible for the 60' road easement, so an easement the full length of the property was not acceptable. The Applicant is willing to construct a gravel road from Meadows Dr. to the back entrance of the Commercial property and dedicate this as a public road which he believes will comply with the access plan. There is no proposal to build a through road and no financing for a road to connect to the hospital development. The Applicant is asking that Condition Three be modified to "provide a commercial driveway which is to be dedicated to the public" only and condition five to say specifically the Applicant will not proceed if CDOT requires the closing of the access on Highway 160 and only if the terms of the access to Meadows Dr. is agreeable to the Applicant. The site plan for the additional building was already approved and the Applicant has provided a rear access as requested.

Commissioner Adams asked for clarification regarding CDOT's statement that they will close the access at Highway 160 to A Affordable Storage if they put the rear access in. Mr. Eggleston replied that he would apply to CDOT to keep that access open but they need County approval on the minor amendment before taking up the expense of modifying the CDOT access permit. The Applicant's plan is to propose to

CDOT to put a gate at the new development area and have the new access serve only the new development, while the Highway 160 access would continue to serve the existing buildings.

Chairman Frederick stated that he didn't feel this met the conditions of a minor amendment. Mr. Eggleston pointed out that the site plan was already approved and the applicant is only adding a secondary access. Staff had recommended taking this to Planning Commission as a minor amendment.

Chairman Frederick than asked by what instrument would the easement be dedicated? Mr. Eggleston answered he would use an easement deed from Mr. Heitz to A Affordable Storage and the Public. There was more discussion regarding the paving of this driveway and standards to build as a public road.

Mr. Shepard interjected that staff did suggest the minor amendment and the question still stands if it meets those requirements. Also, the variance to the road standard is under the Board of Adjustment purview not the Planning Commission. The variance was customized to meet what the Applicant had designed, which was to build a road to meet the County gravel road standards and not a commercial driveway.

Commissioner Hooton asked if the easement was dedicated to the County would the County be responsible for maintaining it. Mr. Shepard responded the County Board could accept the easement without accepting the responsibility for maintaining it. Commissioner Adams commented that it will be a public road on private property, how we manage that was not clear.

Chairman Frederick opened the floor for public comment at 7:13 PM.

Jim Harkness, 194 Paciente Place, questioned if the Applicant is required to put a commercial road on residential private property, will that make the property commercial? As a resident he doesn't want to live behind a commercial business which is why he bought in a residential area. He asked the Commission to deny this request. To have commercial traffic behind him as well as in front of his house would create a health concern because of the dust. In addition commercial traffic on to Meadows Dr. past the Lutheran Church creates a safety hazard for their school and the children.

Paulette Harkness, 194 Paciente Pl., added that the commercial access would be open twenty four hours a day and would increase the noise and dust in the area and she asked the Commission not to approve this access.

Chairman Frederick closed the public comments on the matter at 7:17 PM.

Commissioner Hooton asked the Applicant under what conditions from CDOT would they accept the closure of Highway 160 access. Mr. Eggleston reiterated the Applicant would not continue with the project if the access to Highway 160 is going to be closed.

Chairman Frederick commented that it was more likely that the parcel between South Pagosa Blvd. and A Affordable would take access from S. Pagosa Blvd rather than Meadows Dr. because there is already legal access created there. Also, he added that the impact to the residential and church properties would not be any greater than it is now because the development is not getting closer to those properties then it is currently. The Applicant is asking to approve the addition of the access and then will go to CDOT and deal with their concerns. He continued, stating that he was not sure this met the conditions of the minor amendment. The Board of County Commissioners would need to accept the easement deed for the road or not.

Commissioner Adams asked about the width of the road easement. Mr. Eggleston repeated that it would be a 60 foot easement to meet the County Road and Bridge Standard for a gravel road.

Commissioner Shahan express concern regarding doing an approval before the Board of Adjustment had ruled on the variances requested by the applicant. Mr. Eggleston stated they have been asked to provide a back access that is what they are doing. There was then some discussion on how the County would accept the easement or if they could, and that the County Attorney and the County Board would have to make that determination.

Commissioner Hooton moved to approve the request for the A Affordable Storage CUP Amendment, with the Findings A and B of the staff report, and conditions as follows

1. The address for the new access will be corrected.
2. Applicant shall record a shared drainage easement, covering the improvements shown on the existing site plan, in case the properties are ever sold separately.
3. Applicant shall record a public easement, 60' from Meadows Dr. to A Affordable Storage parcel, which will be used for a road built to County standards to access the project.
4. Applicant shall provide confirmation by a professional engineer that the access design and construction meet the 2009 International Fire Code, prior to any application for a certificate of occupancy.
5. Applicant shall provide an updated access permit for Meadows Dr. issued by the Colorado Department of Transportation prior to any application for a building permit, that does not modify access to Highway 160.
6. Any signage for the Meadows access shall conform to the county sign code.

Commissioner Parker seconded the motion. Chairman Frederick, Commissioners Hooton and Parker voted for the approval. Commissioners Adams and Shahan voted against. Approved 3-2.

Chairman Frederick recognized at 7:57 PM a third item. Jim Bell of Pagosa Springs requested to be on the Planning Commission agenda to discuss allowing commercial green houses in the Industrial (I) zone that have to do with Landscaping business outside of the marijuana regulations. There was discussion around typical building types and lighting. There was also discussion with regard to the marijuana regulations and the plants being seen from off the premises and how the growing lights affect surrounding areas. Commercial Marijuana businesses are a Use by Right in Commercial (C) and Industrial zones and reviewed by an administrative site plan approval. There was a consensus to consider the proposal along with upcoming text amendments and see if there were public concerns with the change.

**Reports and Announcements:**

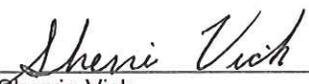
None.

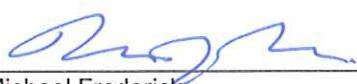
**Next Meeting:**

Special meeting June 8, 2016 for the Two Rivers Gravel Pit at Centerpoint Church, 2750 Cornerstone Dr., 6PM. Procedures for the meeting was briefly discussed. The regular meeting is on June 22, 2016, 6PM at the Archuleta County Administration Building.

**Adjourn:** Commissioner Adams moved to adjourn the meeting, Commissioner Hooton seconded. Meeting adjourned at 8:41PM.

Approved this *27* day of *July*, 2016

  
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Sherrie Vick  
Planning Technician

  
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Michael Frederick  
Chairman

