

201628R

**ARCHULETA COUNTY PROCEEDINGS  
BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners held a Regular Meeting on November 15, 2016 noting County Commissioners Michael Whiting, Clifford Lucero and Steve Wadley, County Administrator Bentley Henderson, County Attorney Todd Starr and June Madrid County Clerk & Recorder present.

Chairman Whiting called the meeting to order at 1:31 p.m. with the Pledge of Allegiance and a moment of silence.

**Disclosures and/or Conflicts of Interest**

**Approval or Adjustments to Agenda**

Executive Session per C.R.S. 24-6-402(4) The Board reserves the right to meet in executive session for any purposes allowed and announced prior to voting to enter into executive session. It was noted that Item D, the Airport Advisory Commission By-Laws on Consent Agenda needed to be pulled and added to the last item under New Business. **Commissioner Wadley moved to pull the Consent Agenda Item D and move it to New Business and approve the Consent Agenda as amended. Commissioner Lucero seconded the motion and it carried unanimously.**

**Public Comments**

Chairman Whiting stated that he was opening the floor to public comments for those wanting to comment on items not on this agenda. Comments were asked to be held to 3 minutes for each person who wishes to speak. No response from the Board would be given.

JB Smith of 43 Scratch Court had two things. One, he was staggered at the cost at the Senior Center. He asked the Board to donate \$60 not the \$20 they usually give. He asked that different meal vouchers be used. They now cost \$70.00 and that's just amazing. Second, he advised the Board to take all funds in the County and build bomb shelters. They would be needed when Trump takes office.

Chairman Whiting recessed the Regular Meeting to convene the Board of Adjustments for Hearings at 1:35 p.m.

**Board of Adjustments**

Chairman Whiting swore in Planning Manager John Shepard for testimony.

**A. Resolution 2016-16BOA Variance for Holiday RV South, Inc.**

Planning Manager Shepard submitted a resolution memorializing what was decided at the November 1, 2016 regular meeting of the Board. The resolution granted a variance for Holiday RV South from paving on property located at Ridgeview Subdivision, Parcel 3. The Findings were as follows: a. the application meets each of the standards for a grant of variance in Section 1.2.4.4(1) of the Archuleta County Land Use Regulations, and b. the application meets the standards for variance from design standards in Section 27.6 of the Archuleta County Road & Bridge Design Standards and Construction specifications. c. the Variance is granted for the specific plans

proposed by Applicant. The Conditions were: 1. Should Bastille Dr. be paved within five (5) years of this approval, the site must be brought into compliance with the access and parking standards then in effect within two (2) years of paving. 2. Variance approval is contingent on compliance with terms of Conditional Use Permit approval. This resolution was memorializing what happened at a previous meeting of the Board.

**Commissioner Lucero moved to approve Resolution 2016-16BOA granting a Variance from paving requirements in the Archuleta County Land Use Regulations for Holiday RV South, Inc. Commissioner Wadley seconded the motion.** Chairman Whiting asked for public comment. **The motion carried unanimously.**

**B. Two Variances for the Veterans Memorial Park**

Planning Manager Shepard submitted a request for a variance from paving and landscaping on County owned property where the Veterans Memorial Park is to be located; Pagosa Vista Tract B-1. The request asked for a variance from Sections 27.1.7.3 and 27.1.7.4 of the Archuleta County Road & Bridge Design Standards and Section 5.4.5.4 of the Archuleta County Land Use Regulations requiring paving of access and parking and Section 5.4.1.6(5) Parking Area Landscaping in the Planned Unit Development (PUD) zone. The park had made a concurrent application for a Land Use Permit to establish a 6.9 acre public park on Vista Blvd. This project was unique. The Land Use Regulations allow for parks in any zone, but we have no standards for the parks. PPOA dedicated this land to the County to be used only for a park. The applicants could have gone through the rezoning process. There were no landscaping plans submitted for the park. The design in case does not meet the regulations. One is in landscaping. According to the Regulations, 6 trees would need to be included in the parking area. Parking must be paved. The applicants have asked to temporarily gravel the parking lot. This gravel could be drug out to the paved road and not a good thing. It could be reasonable to phase in paving. There was only going to be a couple of picnic tables so there shouldn't be a lot of traffic. When the pavilion is built, the paving could be put off for now and required then. That would be a good requirement. Planning Manager Shepard suggested the applicant had not met the standards for the variance to be granted for landscaping. He asked that the motions be made in two different ones, one being for the paving and one being for the landscaping. He stated one condition for the paving portion with that being 1. The parking lot shall be paved prior to application for a building permit for the proposed pavilion. 2. Staff should be directed to bring back a resolution memorializing the decision.

County Attorney Starr stated the property where the park would be located is County owned. It was given to the County from the PLPOA for a park. When completed, it will revert to the County for maintenance. He asked that each Board member state out loud their ability to act on this issue without prejudice.

Commissioner Wadley said he was a member of the Veterans Memorial Park group and had donated \$100. He did not sit on their board and, yes, could be impartial.

Chairman Whiting answered, yes.

Commissioner Lucero answered, yes, he could be impartial.

Chairman Whiting opened the floor for public comments.

**Comments in “In Favor of the Variances”**

James R. VanLiere who was a professional engineer was representing the park group. He passed out a packet for the convenience of the Board. It was information already submitted. He explained what they were asking for and continued to talk about the park. They have plans for the initial phase of the park. This includes the parking area. They concurred with the condition that they pave the parking lot when the pavilion was built. As far as landscaping, they know Mr. Shepard was asking for that Variance to be denied but they don't think it's smart to put in landscaping that will be torn up by construction for the parking lot. Once the parking lot was in, they would know what they want to do landscape-wise. They have every intention of landscaping just not until further down in the process. They understand the concerns but they want to continue with what they can so people would see they are moving forward and continue to donate. There will be trails constructed but not until a later date.

Commissioner Lucero asked what happened if we memorialize the landscaping to be done at the end of the project. Planning Manager Shepard answered that the Board could 'condition' the landscaping in a similar manner, or you can say before occupancy of, if not the building of the pavilion. They asked if the group was agreeable and they said yes. They just want to get started and don't want to damage what they would put in. They are not putting in a watering system yet.

Bill Hudson of 17 Roxanna's Court asked if the pavilion was seating 98 people. Chairman Whiting said the document said 96. Mr. VanLiere said tentatively it was set at 96 so a lot of different people could use it. It could change. Mr. Hudson then asked about only having 18 parking spaces. Planning Manager Shepard said that would be a question for the applicant. They need to justify their parking as it won't be allowed along the public roads. Mr. VanLiere was asked to answer. He said he did not know how to answer. It's kind of a moot point because they don't know yet how it will play out. Obviously there is plenty of space for RV's and buses. They are hoping for veteran tour buses. Mr. Hudson then said it's reasonable to put off the landscaping but it did not seem allowable to have no plan submitted at all. One should be asked for prior to allowing them to put it off.

Rich Beaudry of 150 Brook Drive encouraged the Board to consider both Variances. Reasonable reasons had been given. He's a biologist and said he agreed not planting plants without water.

Harold George of 393 Antero Drive said he had discussed all this with the PLPOA. They are on board. This would create a parking area for people to access the trails.

Chairman Whiting closed comments “In Favor of the Variances” and opened the floor for comments “Opposed to the Variances”.

**Comments “Opposed to the Variances”**

Diane Killen of 1186 Lake Forest Circle wanted to ask about Variances in general. If you have all these rules and you are just going to turn around and allow variances, why have rules? She asked about the gravel. What if they can't fund the pavement when it comes time, what would you do? What levels do they have to achieve to move forward. She too thinks there should be a landscaping plan. She stated her feeling about fund raising. Just seeing work in progress would not be enough to keep people funding it. You need a fail-safe plan to make sure it's going to be completed. She

had no problem with the park, she just didn't want the Vista to get stuck with a non-completed area.

Elizabeth Coleman of 130 Port had concerns about the park. There are a lot of unclarified areas. What if it doesn't get finished? She didn't hear anything about what happened if the parking lot was gravel temporarily, how that fits into the plan. Does that just allow PLPOA people to park there for the trails? She had concerns in leveling the hill. She felt it would disrupt natural vegetation and run off, potentially. She was concerned there are no toilet facilities. Will it be a port-a-potty? She did not want to look at those. She stated it was nice to do something for the Veterans but would like to see the project verified more before being allowed.

Jennifer Smith of 116 Port, agreed with the consensus for the park for the Veterans. She borders the park on Port and had concerns in the phases. She understood there are a number of phases. What are the other ones? Lighting vs no lighting? She was concerned about the hill in the middle of the property which would be scraped. She said that living on Port, that hill acts as a natural barrier for sound and visual car traffic. In her perspective, clearing the hill would deface the property and lead to further erosion. She walks around the pond daily. Drainage was a huge problem. The bridge there already floods in the spring. This should make it worse. Maybe it could be pushed toward Hwy 160. She heard there would be parking for 30. This included 4 for motor cycles, 4 for RV's, and 4 for ADA. For the 4 RV's was there a time line as how long they could park there. She agreed with Ms. Coleman, she doesn't want to look at pot-a-potties either.

Diane Killen of 1186 Lake Forest Circle asked to speak again. She asked if there were anything in the plans about overnight parking and who would check on that. Planning Manager Shepard said he didn't remember if lighting was included but they are regulated. Commissioner Wadley asked if the PLPOA had Ordinances for overnight camping. Planning Manager Shepard did not know. At the end of the day this park would revert to Archuleta County so it would be the County's job.

Mr. VanLiere said he had a full set of drawings, including lighting, drainage, parking etc. Someone said her property bordered the park. That statement was not right. The hill was said to be a sound barrier but that is not right either.

Chairman Whiting closed comments "Opposed to the Variances".

#### **Commissioner Comments**

Commissioner Lucero said you could apply for a grant for toilets. He suggested they do this right away. This was going to cause a lot of traffic on Port Ave. They already deal with the dust. It may need to be magged (Magnesium Chloride) two times a year.

Commissioner Wadley appreciate the neighbors' concerns about not completing the park. You take that risk with any project but they should be given a chance to complete this park. He felt it would get done.

Chairman Whiting asked when the County takes possession of the park. That was fairly nebulous but it was after completion. So if it doesn't get completed, the County would be responsible? County Attorney Starr answered that if that happens, the Vets loose and it goes back to the County and back to the PLPOA. County Attorney Starr also said that there was indeed a time restriction on

the Veterans. He believed they had 3 or 5 years to complete the project.

Chairman Whiting wanted to express support against having exposed port-a-johns. They would be visible also from Hwy 160 and should be shielded. He would like to see landscaping in the motion. He didn't think it should not be paved now but wanted to make sure it happens. Planning Manger Shepard wanted to clarify that they are not proposing a temporary parking lot just the gravel will be temporary. In the terms of port-a-potties, they are not allowed so that was not a problem. They are within a sewer district. They are not allowed by the Land Use Regulation. There must be a completed restroom.

**Commissioner Lucero moved to approve the Veterans Memorial Park Variance from Landscaping requirements in the Land Use Regulations and instruct staff to draft a resolution stating these Findings and Facts with 3 conditions 1. Approved landscaping plan at a later date, 2. Follow PLPOA lighting Regs 3. No overnight parking allowed at the Vets Memorial Park. Commissioner Lucero asked to amend the motion and add that the landscaping plan had to be submitted before 2 years from the passage of the resolution. Commissioner Wadley seconded the motion. The motion carried unanimously.**

**Commissioner Wadley moved to approve the Veterans Memorial Park Variance from Paving requirements in the Road & Bridge Design Standards with Condition 1 of the staff report and instruct staff to draft a resolution stating these Findings and Conditions of Approval. Commissioner Lucero seconded the motion and it carried unanimously.**

Chairman Whiting closed the Board of Adjustments took a break at 2:40 p.m. Chairman Whiting convened a Land Use Hearing at 2:43 p.m.

#### **Land Use Regulation Hearing**

Chairman Whiting swore in Planning Manager John Shepard for testimony.

#### **A. Resolution 2016-74 Approving the Conditional Use Permit for Holiday RV South, Inc.**

Planning Manager Shepard submitted a resolution for the Board's consideration. It stated Findings and Conditions for Approval of the request for the Holiday RV South Conditional Use3 Permit (CUP) on property owned by Bruce Lamereaux. The property is located in Ridgeview Subdivision Parcel 3. The Board approved the CUP with conditions on November 1, 2016. The Findings were: a. the application meets the review criteria for a Conditional Use Permit in Section 3.2.3.4 of the Archuleta Count Land Use Regulations. The Conditions were: 1. Applicant shall submit a detailed site development plan, meeting the requirements of Section 3.2.3.2(3) of the Archuleta County Land Use Regulations for approval by the Development Services Department within 30 days. 2. Applicant shall submit a drainage study, signed and sealed by a professional engineer, meeting the requirements of Section 5.3.4 of the Land Use Regulations within 30 days. 3. Applicant shall submit parking area construction plans signed and sealed by a professional engineer as required by Section 5.4.5 of the Land Use Regulations and Section 27.1.7.4 Design Standards for Parking Areas in the Archuleta County Road & Bridge Design Standards within 90 days. 4. Recreational vehicles shall not be parked in required setbacks shown on the Bechtolt Engineering Improvement Location Certificate in the Vision Clearance Areas required by Section 5.4.7 of the Land Use Regulations or Sight Triangle required by Section 27.1.63 of the Road & Bridge Design Standards. 5. Recreational

vehicles shall only be parked with adequate spacing between units (minimum 8') as required by the Pagosa Fire Protection District. 6. Applicant shall reimburse Archuleta County for necessary public notice within 30 days. **Commissioner Wadley moved to approve Resolution 2016-74 approving the Web request for Holiday RV South Conditional Use Permit. Commissioner Lucero seconded the motion and it carried unanimously.**

**B. Western Heritage Event Center Request for a Conditional Use Permit**

Planning Manger Shepard submitted a request to the Board from the Western Heritage Event Center, Inc. represented by Jess Ketchum who had applied for the Western Heritage Event Center Agricultural Education and Equestrian Event Center Condition Use Permit on Lot 2M in the Fairground Minor Impact Subdivision located at 344A US Hwy 84 (corner of County Road 302). The proposal allows for a covered arena as a Public Use in the Agricultural Ranching zone in addition to the existing open arena and improvements at the Archuleta County Fairgrounds. The Planning Commission had already approved the use with conditions. The Board had continued this item from Regular Meeting of September 6, 2016 to October 4, 2016 Regular Meeting then again today. In order for this to work the County would need to receive the covered arena upon completion of the project. That process had not been completed yet. They were not asking the Board to commit to all ideas now but it gives the County a reason to approve since they will eventually regain ownership. Today the project is a covered arena with no seating.

The Findings were:

- 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.

The Conditions were:

1. Approval is contingent on the Board of County Commissioners' acceptance of proposed improvements; approval shall run with the proposed Events Center facility.
  2. Uses will be limited to those described in the application and those approved by the Archuleta County Administrator.
  3. All events shall be conducted in compliance with the Performance Standards in Section 5.4.2 of the Archuleta County Land Use Regulations, including (but not limited to) volume of sound, vibration, and emissions.
  4. All outdoor lighting shall be installed in compliance with Section 5.4.4 of the Archuleta County Land Use Regulations.
  5. A seasonal caretaker may occupy an RV on-site for up to 120 days per year.
  6. A fire lane shall be provided on the east side of the arena.
  7. Applicants shall apply for a Development Agreement for review by the County Attorney and approval by the Board of County Commissioners, providing for cross-access and parking and continued joint use, operations and maintenance.
  8. Addresses for structures on this parcel shall be updated according to County policy.
  9. Applicant shall submit a complete Building Permit application within one year of final approval, as required by Sec. 3.2.3.6 of the Archuleta County Land Use Regulations
- He also asked the Board to direct staff to submit a resolution memorializing the results of today's actions.

Chairman Whiting opened the floor for public comments.

**Comments in “In Favor of the CUP”**

JR Ford of 5240 County Road 400 was present in lieu of Jess Ketchum (project manager) who could not be here. He went back to how the property came about. 3 acres were donated at the time the County was talking about closing the County Fair. The next step in updating the grounds were the bathrooms. Money was raised, building was built then donated back to the County. This was actually the step getting up to the covered arena.

Diane Killen of 1186 Lake Forest Circle felt this was great and asked what the footing would be, an arena is pretty worthless without seating. What would you do with it? If someone wanted to bring in someone for filming could they do that or would it open only for the rodeo. Mr. Ford said the rodeo grounds are used now for different events if the event is not making money. If they collect fees, they would have to pay a fee to use it. They have talked about a lighting system in there. The footing is this. They have a committee doing this part. They are putting in sand, elevating up off the shale. As far as seating, they had a platform put in so chairs could be put in but the fire code made them take them out. Now they will be used for horse events and 4-H. There was a limited amount of money donated for the building so there was a limit on how far they could go.

Chairman Whiting closed comments in “In Favor of the CUP” and opened comments “Opposed to the CUP”.

**Comments “Opposed to the CUP”**

There were none.

Chairman Whiting closed Comments “Opposed to the CUP”

**Commissioner Comments**

Commissioner Lucero said when the Board was approached the first time they got ahold of Mr. Ford and it took off. It’s important to thank those people who always come forward and help. We are all so lucky that people are willing to donate money to these kinds of projects.

Commissioner Wadley said there are a lot of events and things for those kids who are in trouble but nothing much was done for those kids who are on the right path like the 4-H kids. They need something too. He too wanted to thank those who step up and do these projects.

Chairman Whiting admired those helping too and understood the benefit to the youth and fair grounds. He had some concerns not related to the arena, more to our process. There are so many decisions along the way. At what point would the County be responsible for ongoing costs. What are the annual costs of these facilities given their intended use because the County will be picking up these costs? It’s not a criticism its showing the weakness in our process where we should be showing costs before we complete a project. Are we at the point where we obligate ourselves to the future costs?

County Administrator Henderson said we will have a development agreement where we understand the big picture and it will talk about everything. A quick discussion was held regarding dust control, access and drainage. It’s at this point where the Board would decide if they are ready to take over the project for the future. Chairman Whiting asked again why the cost development comes at the end and not the beginning. County Administrator Henderson said we don’t know all those figures yet. Chairman Whiting wanted to reiterate that this was not a problem with the project

it's a flaw in the way we do business. We should by now know what its' going to cost. It doesn't matter now but he just wanted to state that fact.

Commissioner Lucero said he had asked Mrs. Schaaf to start on this because he knew it was coming up. Roberta Tolan Extension Director and Terri Schaaf Fair Board Manager were present to speak. Ms. Tolan wanted to thank those responsible for this project. It was going to be a great thing for the County. The cost is based on the uses and they are not sure of all the uses yet. They have talked about lighting, grading, tools and machinery, liability and plowing. They are assuming the uses are therefore the Fair, Rodeo and 4-H and they don't see any revenue coming in around that. If you go to other uses, they did talk to La Plata and found out what they charge for roping and other outside events. They did come up with some upfront costs without adding uses. They figured the maintenance would be 1% of the maintenance costs for that portion.

Planning Manager Shepard said typically you see a business plan with this kind of project but there was none. He wanted to give a note of caution on seating, it would be reviewed by the Fire Department and CDOT because this creates a new use.

**Commissioner Lucero moved to approve the Western Heritage Events Center, Inc. request for the Western Heritage Events Center Agricultural Education and Equestrian Event Center's Conditional Use Permit with Findings a. and b. and Conditions 1-9 of the Staff Report and instruct staff to draft a resolution stating the Findings and Conditions of Approval. Commissioner Wadley seconded the motion.** Chairman Whiting asked staff to come up with solid costs of this project and submit them to the Board. **The motion carried unanimously.**

**C. Lake Pagosa Park Amendment 2016-01**

Planning Manager Shepard submitted a plat for the Board's consideration. Paul & Barbara Aamodt and Bonnie and Amanda Bourland had applied for amendment to the original plat for Lake Pagosa Park. The amended plat would be called the Lake Pagosa Park Amendment 2016. The plat is a minor lot line adjustment to re-plat lots 10 & 11, Block 17. There are homes on both lots. The project was proposed so the driveway for Lot 11 would not encroach on Lot 10. The owners traded property so their driveways don't cross the others land.

Chairman Whiting opened the floor for public comments.

**Comments in "In favor of the Plat"**

There were none.

Closed Comments in "In Favor of the Plat" and opened the floor for comments "Opposed to the Plat".

**Comments "Opposed to the Plat"**

There were none.

Chairman Whiting closed Comments "Opposed to the Plat"

**Commissioner Comments**

There were none.

**Commissioner Wadley moved to approve the Lake Pagosa Park Amendment 2016-01 Plat. Commissioner Lucero seconded the motion and it carried unanimously.**

Chairman Whiting closed the Land Use Hearing and reconvened the Regular Meeting at 3:38 p.m.

**Consent Agenda**

**A. Payroll & Payable Warrants and Purchase Cards for November 2-15, 2016**

General Fund Payable	114,018.47
Road and Bridge Fund Payable	226,354.99
Department of Human Services Fund Payable	34,335.53
1A Fund Payable	2,559.88
All Combined Dispatch Fund Payable	7,111.21
Conservation Trust Fund Payable	7,500.00
Solid Waste Fund Payable	223.11
Airport Fund Payable	1,914.10
Fleet Fund Payable	86,016.93
<b>Total</b>	<b>\$ 480,034.22</b>

General Fund Payroll	146,341.72
Road and Bridge Fund Payroll	35,320.08
Department of Human Services Fund Payroll	30,725.99
All Combined Dispatch Fund Payroll	16,378.53
Solid Waste Fund Payroll	6,327.03
Airport Fund Payroll	2,833.81
Fleet Fund Payroll	8,435.19
<b>Total</b>	<b>\$ 246,362.35</b>

B. Resolution 2016-75 Lot Consolidation of lots in Pagosa in the Pines owned by Roger L. & Siri K. Cooper

C. Appointment of John VanderHorck to the Airport Advisory Commission (AAC)

D. By-Law of the Airport Advisory Commission (AAC) (pulled to go under New Business)

County Administrator Henderson read the Consent Agenda. **Commissioner Lucero moved to approve the Consent Agenda as read and amended. Commissioner Wadley seconded the motion and it carried unanimously.**

**New Business**

**A. Ordinance No. 17-2016 First Reading**

County Attorney Starr presented Ordinance No. 17-2016 for the First Reading. The Ordinance adopts vehicle type and speed regulations for Cascade Avenue. This Ordinance limits the speed on Cascade Avenue to 25 miles per hour. Property owners are present and wish to speak. The language in the Ordinance does not preclude the State Patrol from issuing tickets on this road, it's just that the Ordinance talks mostly about the Sheriff's Office. They may, it's just that the main is Sheriff

Chairman Whiting asked for comments regarding this Ordinance.

Howard Strahlendor of 300 Cascade Ave. thanked everyone helping in getting this done. He wanted this airtight. What does it mean when it says 'local trucks only'? When it says vehicles then trucks, what is the difference?

County Administrator Henderson said there could probably be a better description put in regarding "local". During the meetings, the 'truck' was considered a higher weighted truck than pickup trucks. They were trying to limit use and speeds. They could add more definitions for the second reading. Changes are allowed to be added for the second reading.

County Attorney Starr said a 'truck' is a subset of a greater vehicle. A better description will be added.

Commissioner Wadley wanted it set up so people aren't using the road for a shortcut.

Mark Young of 222 Sam Houston Avenue and owner of 'At Your Disposal' said he was not concerned about the speed limit. He had put cameras on his truck to stop this. There are 22 homes he picks up in that area. They use that road to go to the land fill. If you don't let me through, I have to go all the way back to town to get to the dump. County Attorney Starr asked the question "If we leave it like it is, they cannot use the road to get to the dump". The answer was 'that's right'.

Jean Strahlendor of 300 Cascade Ave. said they had clocked both ways and it was 4.5 miles each way and 9 minutes difference. That was this summer too when traffic was heavy.

Beth Tollefsen of 706 Buttress Avenue wanted to say thank you for taking care of this problem. When the land was donated, it was not supposed to be a commercial route or shortcut to the dump. Their good deed had been turned into a crazy situation. When they bought their property the signs were up for no through traffic and everything was good. Then they came down. They are happy that they have to go back up.

Chairman Whiting closed public comment.

County Attorney Starr informed the Board he needed better direction before the Board finished.

**Commissioner Wadley moved to approve the First Reading of Ordinance No. 17-2016 for Adopting Vehicle Type and Speed Regulations for Cascade Avenue, to direct County Attorney to publish in full in the *Pagosa Springs Sun* and to schedule a Public Hearing for the Second and Final Reading of Ordinance No. 17-2016 with the definition of "local" to be added and that Cascade Avenue not to be used as a short cut. Commissioner Lucero seconded the motion and it carried unanimously.**

**B. Memorandum of Agreement between Southwest Colorado Council of Governments and Archuleta County**

County Administrator Henderson submitted the Memorandum of Agreement (MOA) to the Board for consideration. Miriam Gillow-Wiles with the Southwest Colorado Council of Governments of Durango, Co. She thanked the Board for inviting her. It has taken 6 years for this process to be completed. There is a reason for the revenue share for the County. They (COG) do all the billing and send a check to the County at the end of the year. If they can lease out the dark fiber it brings better service to the public. This Agreement would be going to the Town Board on December 6, 2016.

Commissioner Lucero asked about maintenance, why the COG can't take care of it. She said there is very little maintenance on fiber. It's pretty much a static piece of structure. What changes is the equipment at each end of the line. Commissioner Lucero asked if we could change that part of the Agreement and have the COG take the maintenance. She said the COG does not have that kind of money now to pay for a large fiber cut. It's owned by both the Town and County so it would not pay for them to do the maintenance. When more revenue was brought in that could be discussed again. Commissioner Lucero said we need to talk now. The COG should take it. You guys get 75% of the revenue. County Administrator Henderson asked if the fiber repair fund was up. She answered, yes, at \$30,000. He asked if part of our due structure makes that happen and the answer was, yes. The question was asked what it cost to repair a fiber damage. She said \$30,000 would be a drop in the bucket, that's why you have insurance. Commissioner Lucero asked again, if someone on their own cuts it, what does it cost to repair? She answered it depends on how many splices are needed and if it can be repaired. It may need to be replaced.

County Attorney Starr asked if the COG had gone after anyone since established and the answer was, no.

Commissioner Lucero asked if she could go back and ask the COG and see if they would do the maintenance. 75-25 (they get 75% we get 25%) they are fine with but not the maintenance.

Chairman Whiting said this had already been discussed to the max. The bulk of the work the COG is taking on is the cost of leasing the fiber, so for COG members to go back to the drawing board over the agreement doesn't make sense. Commissioner Lucero said he was not concerned with the 75% he just wanted them to take the maintenance.

County Attorney Starr said he was suggesting that the agreement be changed so that both the Town and the County are signing the same Agreement since they both own the 25%. Ms. Gillow-Wiles said that was an easy fix and made sense. They would make the signature page for both the County and Town.

After a lengthy discussion, it was decided that the Board would continue this item until December 6, 2016. They will correct the signature page and ask for the COG to do the maintenance.

**Commissioner Lucero moved to continue this item until the December 6, 2016 meeting. Commissioner Wadley seconded the motion and it carried unanimously.**

**C. Position Classification Pay Scale Amendment**

County Administrator Henderson submitted an amended Position Classification Pay Scale for Archuleta County. The amended Pay Scale is intended to replace the Pay Scale adopted in 2016. This is the scale that needs to be in place in order to proceed with the salary survey. **Commissioner Wadley moved to approve the 2016 Amended Position Classification Pay Scale. Commissioner Lucero seconded the motion and it carried unanimously.**

**D. Airport Advisory Commission By-Laws (moved from Consent Agenda)**

Kate Alfred Archuleta County Airport Manager had submitted the Airport Advisory Commission. Commissioner Lucero asked Ms. Alfred why the Commission wanted to put in the change allowing

for two members on AAC Board to help hire the next Airport Manager.

She explained what had happened awhile back. They (the AAC Board) wanted to ensure that they get an opinion because they feel they have a better idea of who would be the best person to become the Airport Manager because of their expertise. The Board asked County Attorney Starr if he thought this was bad idea. He said it was a bad precedence to set. You are creating a rule to bind a future Board and making a decision that would allow for every board under the Board of Commissioners to ask for the same privilege.

Commissioner Wadley said it's important that the three of them seek that input if it happened but did not feel they should be telling the Board who to hire.

Chairman Whiting said this was an advisory board, like the Planning Commission. He then asked if this wording binds the Board and the answer was, yes. The Board agreed all other commissions would come and ask the same thing.

Airport Manager Alfred said this was not a deal breaker and would not upset anyone on the advisory board, they just thought they would ask. They will remove it and resubmit. The other change was the meeting day.

#### **Media Questions**

Marshal Dunham Pagosa Springs Sun asked about the Under-funded Grant we received in the amount of \$200,000 and we had asked for \$400,000. Where would it go? The answer was the General Fund and in 2017. He asked if it would be paying the schematic design done through Riley Johnson and the answer was, yes. He then asked when. The Board said that was still to be determined.

Chairman Whiting thanked Judge Lyman for his presence at the hearing. He also thanked County Administrator Henderson for going up and being there.

Commissioner Wadley said when you ask for a grant you are sometimes disappointed. You always want everything but they are happy with what they got.

#### **Commissioner Comments**

Commissioner Wadley said he was greatly appreciative of the voters for returning him to his seat as County Commissioner.

Chairman Whiting stated the Board would be going into Executive Session and asked for a motion.

#### **Executive Session**

**Commissioner Wadley moved to go into Executive Session for the purposes of the Board receiving legal advice on specific legal questions pursuant to C.R.S. 24-6-402(4)(b) for the purposes of the Board receiving legal advice regarding Restrictive Covenants on the County owned property and eminent domain. Commissioner Lucero seconded the motion and it carried unanimously.**

Chairman Whiting stated those going into the session would be the three Commissioners, County Attorney Starr and County Administrator Henderson.

Chairman Whiting recessed the meeting at 4:22 p.m. to go into Executive Session.

Chairman Whiting reconvened the meeting at 4:35 p.m.

**New Business**

**E. Eminent Domain on Restrictive Covenants on County owned Hot Springs Property**

**Commissioner Lucero moved to find that it is necessary and furtherance of public purpose to use our eminent domain power to remove the deed restriction on our Hot Springs property and to direct staff and legal counsel to proceed with an Eminent Domain action. Commissioner Wadley seconded the motion.**

Chairman Whiting asked for public comment.

Bill Hudson of 17 Roxanna's Court had been involved in some litigation recently and was surprised that it took two years to come to a decision regarding the legality of an Executive Session. He's surprised that the Board would want to get into something that will be tied up in court for a long time. You need to work together.

David Dennis of 108 Gala Place urged the Board not to pursue the Hot Springs property and consider putting the justice center where the middle school exists. It's upsetting to see middle school kids crossing the street and could end in death or major injury.

Natalie Carpenter of 209 Park Avenue said she understood the use of eminent domain but the fact now is this is being done as a power play and not necessary. Eminent Domain is used when all else fails. You are not to that point. She was disappointed in the Board's decision.

Commissioner Wadley said he wished the school was vacant and available. It would deserve inspection. We own a property with a deed restriction. We have exhausted our search and are down to this.

Commissioner Lucero said his first choice was the elementary school. When they first started it was said by the Fairway Trust that it wouldn't be an issue but went back on their word. The County owns this. He felt the County was being held hostage by not allowing them to use the property as they need. The Board was not going after a property, they wanted to use their own property the way they need

Chairman Whiting wanted to say, eminent domain in this case, is unethical, premature and wrong. This is probably the most serious thing a government could do. You are stripping someone of their rights. When the Levine's sold to the County they owned and still own the property nearby and did not want a jail built by their property. We agreed to the conditions. Now we are going back on our word. We were just supposed to not build a jail. Now years past, we are going to go back on our words and strip those people of their private property rights. Eminent domain is forcing and taking of property rights. Its purpose is when all else fails; you use it then and only then. In addition it affects the Levine family, Fairway Trust with almost no notice to the Levines. We have done no

November 15, 2016

public notice. This is a tool of last resort. This is an abuse of government power. We heard from counsel that we have a great chance to succeed. Aside from the specifics, it sends the exact message we have been working to overcome. That being we are not trustworthy. If you get in our way, we will just take it. I ran for office to minimize the damage the Board has done to others. This is the most irresponsible thing this Board has done.

**The motion carried with Commissioners Lucero and Wadley voting "Aye" and Commissioner Whiting voting "Nay".**

With no further business coming before the Board, the meeting was adjourned at 4:52 p.m.

  
\_\_\_\_\_  
June Madrid  
County Clerk & Recorder

Approved this 6<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
Michael Whiting, Chairman



**ARCHULETA COUNTY, COLORADO  
RESOLUTION 2016-16 BOA**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT APPROVING VARIANCE  
FROM THE ARCHULETA COUNTY LAND USE REGULATIONS  
FOR PARCEL 3, RIDGEVIEW SUBDIVISION REPLAT**

**WHEREAS**, the Board of County Commissioners has adopted the *Archuleta County Land Use Regulations*, pursuant to C.R.S. §30-28-101, *et. seq.*, C.R.S. §24-64.1-101 *et. seq.*; C.R.S. §24-67-101 *et. seq.*; and C.R.S. §29-20-101 *et. seq.*; and

**WHEREAS**, Jeremiah "J" Webb, Holiday RV South, Inc. of South Fork, CO, applied for the Holiday RV South Variance from Section 5.4.5.4 of the *Archuleta County Land Use Regulations*, and Sections 27.1.7.3 and 27.1.7.4 of the *Archuleta County Road and Bridge Design Standards* requiring paving of access and parking (PLN16-055); and

**WHEREAS**, Bruce Lamereaux signed the Application as owner(s) of record of Parcel 3, Ridgeview Subdivision Replat, located at 633 Navajo Trail; and

**WHEREAS**, the property is zoned Planned Unit Development (PUD), and a concurrent application has been made for a Conditional Use Permit to permit Outdoor Sales of Recreational Vehicles in the PUD zone (PLN16-054); and

**WHEREAS**, the Board of County Commissioners sits as the Board of Adjustment, as provided by Section 1.2.4.2 of the *Archuleta County Land Use Regulations*; and

**WHEREAS**, the Board of Adjustment opened a public hearing on the request on September 20, 2016, which was continued to October 4, 2016, and further continued to November 1, 2016; and

**WHEREAS**, public notice of the hearing was given by publication in a newspaper of general circulation in the County, posted on site and mailed to adjacent property owners, at least twenty-one (21) days prior to the public hearing, as required by Section 2.2.3 of the *Archuleta County Land Use Regulations*; and

**WHEREAS**, at the public hearing testimony was taken from all persons appearing and wishing to give testimony; and

**WHEREAS**, the Board of Adjustment considered in full the requirements of Section 2.2.3 of the *Archuleta County Land Use Regulations* as to Standards for the Grant or Denial of Variances; and

**WHEREAS**, the Board of Adjustment voted 3-0 to approve the request.

Rm.  
JUNE MADRID  
RESOLUTIONS



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June Madrid  
Archuleta County

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF ARCHULETA COUNTY, COLORADO, AS FOLLOWS:**

**Section 1. Findings.**

The Board of Adjustment finds that:

- a. The application meets each of the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and
- b. The application meets the standards for variance from design standards in Section 27.6 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications*, and
- c. Variance is granted for the specific plans proposed by Applicant; and

**Section 2. Conditions.**

The Board of Adjustment approves the Webb Request for the Holiday RV South Variance from Sections 27.1.7.3 and 27.1.7.4 of the Archuleta County Road and Bridge Design Standards and Section 5.4.5.4 of the Archuleta County Land Use Regulations requiring paving of parking, on Parcel 3, Ridgeview Subdivision Replat at 633 Navajo Trail, Pagosa Springs, CO, with the following conditions:

- 1. Should Bastille Dr. be paved within five (5) years of this approval, the site must be brought into compliance with the access and parking standards then in effect within two (2) years of paving.
- 2. Variance approval is contingent on compliance with terms of Conditional Use Permit approval.

APPROVED AND ADOPTED this 15 day of November, 2016, in Pagosa Springs, Archuleta County, Colorado.

BOARD OF ADJUSTMENT  
OF ARCHULETA COUNTY, COLORADO

  
Michael Whiting, Chairman

ATTEST:

  
June Madrid, Clerk and Recorder

  
Deputy Clerk

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**BOARD OF COUNTY COMMISSIONERS  
ARCHULETA COUNTY, COLORADO  
RESOLUTION 2016-74**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS APPROVING  
THE HOLIDAY RV SOUTH CONDITIONAL USE PERMIT  
FOR PARCEL 3, RIDGEVIEW SUBDIVISION REPLAT**

**WHEREAS**, the Board of County Commissioners has adopted the *Archuleta County Land Use Regulations*, pursuant to C.R.S. §30-28-101, *et. seq.*, C.R.S. §24-64.1-101 *et. seq.*; C.R.S. §24-67-101 *et. seq.*; and C.R.S. §29-20-101 *et. seq.*; and

**WHEREAS**, Jeremiah "J" Webb, Holiday RV South, Inc. of South Fork, CO, applied for a Conditional Use Permit to permit Outdoor Sales of Recreational Vehicles in the PUD zone (PLN16-054); and

**WHEREAS**, Bruce Lamereaux signed the Application as owner(s) of record of Parcel 3, Ridgeview Subdivision Replat, located at 633 Navajo Trail; and

**WHEREAS**, the property is zoned Planned Unit Development (PUD), and a concurrent application has been made for a Variance from requirements for paving of access and parking in the PUD zone (PLN16-055); and

**WHEREAS**, the Planning Commission held a public hearing on the request on July 27, 2016, recommending approval (3-1) with conditions; and

**WHEREAS**, the Board of County Commissioners opened a public hearing on the request on September 20, 2016, which was continued to October 4, 2016, and further continued to November 1, 2016; and

**WHEREAS**, public notice of the hearing was given by publication in a newspaper of general circulation in the County, posted on site and mailed to adjacent property owners, at least twenty-one (21) days prior to the public hearing, as required by Section 2.2.3 of the *Archuleta County Land Use Regulations*; and

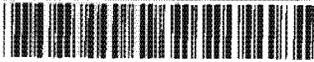
**WHEREAS**, at the public hearing testimony was taken from all persons appearing and wishing to give testimony; and

**WHEREAS**, the Board of County Commissioners has taken into consideration the recommendations of the Archuleta County Planning Commission and public testimony, and the requirements of Section 3.2.3 of the *Archuleta County Land Use Regulations* for a Conditional Use Permit; and

**WHEREAS**, the Board of County Commissioners voted 3-0 to approve the request.

Rjn.

JUNE MADRID  
RESOLUTIONS



1

**RESOLUTION NO. 2016-75**

**A RESOLUTION APPROVING THE CONSOLIDATION OF CERTAIN LOTS IN ARCHULETA COUNTY, COLORADO**

**WHEREAS**, the Board of County Commissioners of Archuleta County, Colorado, has heretofore adopted regulations relating to the consolidation of lots in Archuleta County, Colorado, (Resolution No. 2006-25); and

**WHEREAS**, the Board has received an application from Roger L. Cooper and Siri K. Cooper, to consolidate certain lots in Archuleta County pursuant to the regulations heretofore adopted by the Board; and

**WHEREAS**, the Board has found that Roger L. Cooper and Siri K. Cooper has met all the requirements contained in said regulations for Lot Consolidations and the Board may consolidate the hereafter mentioned lots.

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Archuleta County as follows: The Chair does hereby sign on authority granted by the Board of County Commissioners and approves the consolidation of Lots 13 and 15X, Pagosa in the Pines Block 6, according to the plat thereof filed for record March 13, 1970, as Reception No. 73014 through 73027 and further defined in Resolution No. 2010-70 recorded December 23, 2010 as reception No. 21009208 in the Clerk and Recorder Office, Archuleta County, Colorado, to become Lot 15XX with the condition that if, at a future date, there is a request to split or re-subdivide the consolidated lots, the applicant must comply with the applicable Land Use Regulations in effect at the time the application is made.

APPROVED AND ADOPTED DURING A MEETING DULY AND REGULARLY CALLED, NOTICED, CONVENED AND HELD IN PAGOSA SPRINGS, ARCHULETA COUNTY, COLORADO, this 15<sup>th</sup> day of November, 2016.

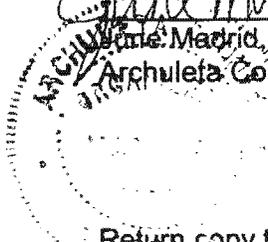
The Board of County Commissioners  
Archuleta County, Colorado

ATTEST:

*June Madrid by Tony Melara*

June Madrid,  
Archuleta County Clerk and Recorder

Chairman Michael Whiting



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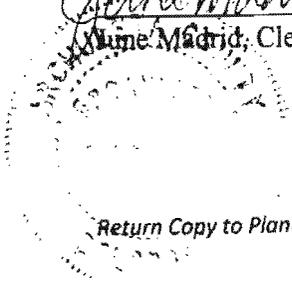
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JUNE MADRID  
RESOLUTIONS



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3 of 3 RES R\$0.00 D\$0.00 Archuleta County

ATTEST:

*June Madrid by Tonya Melana*  
June Madrid, Clerk and Recorder *Deputy Clerk*



*Return Copy to Planning*

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, AS FOLLOWS:**

**Section 1. Findings.**

The Board of County Commissioners 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

**Section 2. Conditions.**

The Board approves the Webb Request for the Holiday RV South CUP, Parcel 3, Ridgeview Subdivision Replat at 633 Navajo Trail, with the following conditions:

1. Applicant shall submit a detailed site development plan meeting the requirements of Section 3.2.3.2(3) of the *Archuleta County Land Use Regulations*, for approval by the Development Services Department, within 30 days.
2. Applicant shall submit a drainage study, signed and sealed by a professional engineer, meeting the requirements of Section 5.3.4 of the Land Use Regulations, within 30 days.
3. Applicant shall submit parking area construction plans signed and sealed by a professional engineer, as required by Section 5.4.5 of the Land Use Regulations and Section 27.1.7.4 Design Standards for Parking Areas in the *Archuleta County Road and Bridge Design Standards*, within 90 days.
4. Recreational Vehicles shall not be parked in required setbacks shown on the Bechtolt Engineering Improvement Location Certificate, in the Vision Clearance Areas required by Section 5.4.7 of the Land Use Regulations, or Sight Triangle required by Section 27.1.6.3 of the Road & Bridge Design Standards.
5. Recreational Vehicles shall only be parked with adequate spacing between units (minimum 8'), as required by the Pagosa Fire Protection District.
6. Applicant shall reimburse Archuleta County for necessary public notice, within 30 days.

APPROVED AND ADOPTED this 15<sup>th</sup> day of November, 2016, in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF ARCHULETA COUNTY, COLORADO

  
Michael Whiting, Chairman



Archuleta County  
Development Services—Planning Department  
1122 HWY 84  
P. O. Box 1507  
Pagosa Springs, Colorado 81147  
970-264-1390  
Fax 970-264-3338

## MEMORANDUM

TO: Archuleta County Board of Adjustment  
FROM: John C. Shepard, AICP; Planning Manager  
DATE: November 15, 2016  
RE: Veterans Memorial Park Variances from Paving and Landscaping, Tract B-1, Pagosa Vista Exemption, on Vista Blvd (PLN16-092)

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### EXECUTIVE SUMMARY

Veterans Memorial Park of Archuleta County, represented by Harold George, has applied for the Veterans Memorial Park Variances from Paving and Landscaping, on property owned by Board of County Commissioners of Archuleta County, Tract B-1, Pagosa Vista Exemption, located on Vista Boulevard, Pagosa Springs, CO (PLN16-092). The request is for Variance from Sections 27.1.7.3 and 27.1.7.4 of the *Archuleta County Road and Bridge Design Standards* and Section 5.4.5.4 of the *Archuleta County Land Use Regulations* requiring paving of access and parking, and Section 5.4.1.6(5) Parking Area landscaping, in the Planned Unit Development (PUD) zone.

Veterans Memorial Park has made a concurrent application for a Land Use Permit to establish a 6.9 acre public park, which is an Administrative approval (PLN16-091).

### REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* (Section 1.2.4) provide for variance from the strict application of the regulations. The Board of Adjustment (at this time the Board of County Commissioners sits as the BOA) may grant relief if strict application of the Regulations would result in peculiar and exceptional practical difficulties, or exceptional and undue hardship. The *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides in Section 27.6 for variances from design standards, with similar criteria. Sec. 1.2.4.4 states that under no circumstances may a variance be granted on the sole basis of cost.

Variance is, essentially, a grant of authority for a property owner to use property in a manner forbidden by the regulations, and should be granted sparingly.

Public notice was published in the *Pagosa Springs Sun* prior to this hearing, posted on site, and mailed to adjacent property owners.

## DISCUSSION

Veterans Memorial Park of Archuleta County is a 501(c)(19) organization formed to design and complete the Veterans Memorial Park. The park is proposed on a 6.9 acre parcel of land, which the Pagosa Lakes Property Owners Association (PLPOA) deeded to Archuleta County by way of the Pagosa Vista Exemption plat approved by the Board of County Commissioners and recorded in October 2014. The property is subject to PLPOA covenants for open space. In August, Applicants submitted a Land Use Permit for administrative Site Plan review, to permit improvements including a parking lot, display pads, and drainage improvements. The site plan also indicates locations for a pavilion, restroom and maintenance building, and picnic shelters, but no specific plans were submitted, and no landscaping plan was provided. Future phases for these structures can be permitted through an administrative Site Plan amendment, but all Development Standards must be met for each phase.

The *Archuleta County Community Plan's* Future Land Use Map considers this area appropriate for High-density residential development. Chapter 8, Policy 5 encourages development of additional neighborhood and community parks in developed areas. A 7-acre area would normally serve a neighborhood park; however, this proposal is more typical of a larger community park likely to attract motorized traffic. There is evidence on-site of an historical railroad bed; however, the site is otherwise unimproved except for a sign and flagpole.

This area was zoned PUD (Planned Unit Development) in 2006, recognizing the covenant controls in the PLPOA area. The parcel was taken out of a larger open space tract owned by PLPOA, with Lake Vista to the west. An undeveloped 36-acre School District parcel, with no development designation, is located to the east across Vista Blvd. The two-lot McCabe Minor Subdivision was approved in 2015 on the property between PLPOA's Open Space and US Highway 160. An off-street trail was also recently completed on the east side of Vista Blvd. Vista Blvd. is classified as a Major Collector.

The narrative notes that "Phase One includes the minimal and essential work necessary to construct the parking area, perimeter sidewalks, a handicap accessible picnic pad." Applicants propose to leave the parking area as gravel for an undetermined time, without required parking lot landscaping. The proposed parking area has 18 regular parking spaces, four motorcycle spots, 4 ADA accessible parking spots, and 5 RV pull-through spaces. Parking is not permitted on County roads.

### **Parking Area Landscaping**

Landscaping is recommended in parking lots to provide shade and improve natural drainage. Section 5.4.1.6 of the *Archuleta County Land Use Regulations* provides that parking areas with more than ten (10) spaces shall landscape at least 10% of the parking lot, including tree islands with 1 tree per 5 parking spaces. Mike Davis, Davis Engineering, calculated 21,551 square feet in the parking lot and access, with a 4,008 s.f. landscaped island that meets that standard. A minimum of one tree (planted in tree islands) is required for each five (5) parking spaces; tree islands must be four feet by four feet, as long as a parking space. Therefore, 6 trees would be required, with the addition of two tree islands. Applicants chose not to include any landscaping plans in their design.

Chapter 2 of the *Archuleta County Community Plan* encourages native landscaping to enhance the appearance of the built environment. Chapter 4, Policy 5, states “New development is encouraged, and, in some cases, required to be designed so that it is visually compatible with community character and the natural environment.” Parking lot trees not only provide shade on hot days, but also capture rainwater and runoff when landscape islands are properly designed.

Few variance from parking lot landscaping have been considered. In August, the Board of Adjustment approved variance from parking lot landscaping (and other standards) for Western Heritage Events Center, an established facility. Variance was also approved for the Humane Society, off of Cloman Blvd in an industrial area; however, they have established landscaped areas closer to their building. This project is starting from scratch.

### **Paving**

Section 5.4.5.4 of the *Archuleta County Land Use Regulations* requires that all parking areas shall be paved. Section 27.1.7.3 and 27.1.7.4 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides design standards for driveways and parking areas. Section 27.1.7.4(C) specifically requires parking areas and drives for development (other than single family homes or duplexes) *must* be paved. Plans have been designed for paved parking, with provisions for gravel as an interim surface for an undetermined time.

Few variances have been approved for unpaved parking lots on paved roads. The Board of Adjustment approved variance from paving for Western Heritage Events Center—CDOT is proposed to close the access on paved US Hwy 84, with primary access on Mill Creek road which has not yet been paved. In April, the Board approved the Buckskin Towing Variance from paving on US Highway 160. The Holiday RV Variance from paving an RV storage parking area was approved at the Board’s last meeting.

In the vicinity, Port Ave. to the north is unpaved, while Park Ave. to the southeast is paved, as is Vista Blvd. itself. When McCabe Minor Subdivision was approved, the business at the corner of US Highway 160 and Vista Blvd was required to pave the portion of their access on county right-of-way, to prevent tracking onto the public road. It may be reasonable, in this case, to phase-in paving until larger improvements are completed, since traffic may be limited until that point.

Reviews for both the Site Plan review and Variance applications were combined. Consulting agency comments included:

- The Engineering Department has no objection to the variance from paving the driveways and parking lots because this is a natural park. After construction of the park and before the parking lots are open to the public, the Engineering Department will require a signed and sealed letter from the design engineer stating that drainage and detention pond were built according to approved plans (date June 30, 2016), and will work appropriately in accordance with County Standards. After construction proper drainage shall be provided by the applicant on all project road frontages.
- Pagosa Fire Protection District has no objection to granting the variances, but will require an approved address sign be posted according to the Fire Code.

- The Building Dept. noted all structures will require building permits, and must be designed and stamped/sealed by a Colorado Architect or Professional Engineer.
- PAWSD and LPEA had no objections to the Variance requests.
- In May, PLPOA Environmental Control Committee approved grading and construction of a gravel driveway to begin work on the park. Specific plans will have to be approved prior to construction.

The Board of Adjustment may grant a variance if all of the standards in Section 1.2.4.4 of the Land Use Regulations are found to exist:

- a. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- b. Circumstances creating the hardship were created subsequently through no fault of the appellant.
- c. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- d. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.
- e. The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the Community Plan.

Applicants discuss justification of their requests in their narrative (See attached):

- The group is still raising funds for the parking lot.
- Drainage improvements will be installed at beginning of project.

All five standards in Section 1.2.4.4 must be met to approve relief from the zoning regulations. Considering each:

- a. Is this a "peculiar" hardship, unique to this property? The Land Use Regulations and Road & Bridge Standards do not specifically address public parks.
- b. Circumstances have not changed since Applicant acquired interest in the property.
- c. No aspect of the property is substantially different from other property in the same zoning district. Applicants offer no justification other than cost, which would more properly be addressed by amending the regulations.
- d. A gravel parking lot will result in mud tracking onto the paved road, and likely dust and sediment pollution. An un-landscaped park will be less attractive to neighbors and visitors.
- e. The Community Plan encourages quality design.

In summary, while it may be reasonable to temporarily permit the parking lot to stay as gravel until traffic increases, there is no justification presented to vary from the adopted *Archuleta County Land Use Regulations*.

## RECOMMENDATION AND FINDINGS

- I. Considering the requests for Variance from required Parking Area **Landscaping**, Staff would suggest Applicants have NOT provided sufficient evidence for relief, and Staff recommends the Board of Adjustment find that:

- a. The application DOES NOT meets the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and

That the Board of Adjustment DOES NOT approve the Veterans Memorial Park Variance from Parking Area Landscaping in Section 5.4.1.6 of the *Archuleta County Land Use Regulations*.

And that the Board of Adjustment instruct staff to draft a Resolution stating these Findings and Conditions of Approval for consideration at the earliest public meeting.

- II. Considering the request for Variance from **Paving**, should the Board of Adjustment accept that Applicant has provided sufficient evidence for relief, staff recommends the Board of Adjustment find that:

- a. The application meets each of the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and  
b. The application meets the standards for variance from design standards in Section 27.6 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications*, and  
c. Variance is granted for the specific plans proposed by Applicant; and

That the Board of Adjustment approves the Veterans Memorial Park Variance from Paving in Sections 27.1.7.3 and 27.1.7.4 of the *Road and Bridge Design Standards*, Tract B-1, Pagosa Vista Exemption, with the following condition:

1. The parking lot shall be paved prior to application for a building permit for the proposed Pavilion.

And that the Board of Adjustment instruct staff to draft a Resolution stating these Findings and Conditions of Approval for consideration at the earliest public meeting.

## PROPOSED MOTION

- I. I move to **DENY** the Veterans Memorial Park variance from **LANDSCAPING** requirements in the *Land Use Regulations*, , and instruct staff to draft a Resolution stating these Findings and Conditions of Approval.
- II. I move to **APPROVE** the Veterans Memorial Park variance from **PAVING** requirements in the *Road and Bridge Design Standards*, with Condition 1 of the staff report, and instruct staff to draft a Resolution stating these Findings and Conditions of Approval.

ATTACHMENTS.

Attachment 1: Area Maps

Attachment 2: Review Comments

Attachment 3: Applicant's Narrative

Attachment 4: Site Plan



Archuleta County  
Development Services—Planning Department  
1122 HWY 84  
P. O. Box 1507  
Pagosa Springs, Colorado 81147  
970-264-1390  
Fax 970-264-3338

## MEMORANDUM

TO: Archuleta County Board of County Commissioners  
FROM: John C. Shepard, AICP; Planning Manager  
DATE: October 4, 2016; **Updated for November 15, 2016**  
RE: WHEC Event Center CUP, on Lot 2M, Fairgrounds Minor Impact Subdivision, at 344 US Hwy 84, (PLN16-071).

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### EXECUTIVE SUMMARY

Western Heritage Event Center, Inc., represented by Jess Ketchum, has applied for the WHEC Agricultural Education and Equestrian Event Center Conditional Use Permit (CUP), on Lot 2M, Fairgrounds Minor Impact Subdivision, at 344A US Hwy 84 (corner of County Road 302), Pagosa Springs, CO (PLN16-071). The proposal will permit a covered arena as a Public Use in the Agricultural/Ranching (AR) zone, in addition to the existing open arena and improvements at the Archuleta County Fairgrounds.

Applicant's concurrent requests for Variances from Development Standards were approved by the Board of Adjustment previously (PLN16-072). At their meeting on July 27, 2016, the Planning Commission recommended approval (4-0) with conditions. On September 6, 2016, the Board of County Commissioners opened this item and continued it to October 4<sup>th</sup>. At that meeting the item was further continued to November 15<sup>th</sup>.

### REVIEW PROCEDURE

*Archuleta County Land Use Regulations* Section 3.2.3 Conditional Use Permit (CUP) provides for Conditional Uses, which require review and evaluation with respect to their effects on surrounding properties and Archuleta County at large. The Planning Commission recommended conditions to the Board of County Commissioners, according to the Review Criteria in Section 3.2.3.4.

Public notice was provided to the applicant for publication in the *Pagosa Springs Sun*, to be posted on site, and to mail to adjacent property owners as required.

### DISCUSSION

Pagosa Springs Enterprises was established in 1949 and was the original governing body of the Western Heritage Event Center (WHEC), established when non-profit status was attained in the

1990s. WHEC hosts two large-scale events each year, the 3-day Red Ryder Roundup Rodeo over Independence Day weekend, and the Archuleta County Fair, in cooperation with Archuleta County which owns Lot 1 of the Fairgrounds Minor Impact Subdivision and the Extension offices there. WHEC is proposing to construct a 164'x250' covered arena on their 30 acre tract, located south of the existing 210'x330' outdoor pipe arena. No additional seating is proposed at this time and no new traffic is expected to be generated. Existing gravel access will be improved to County standards. Pagosa Area Water and Sewer District (PAWSD) is also planning a new public water fill station in the utility easement on Lot 1 near the joint access along the County Road.

The *Archuleta County Community Plan of 2001* provides guidance for future development. The Future Land Use Map shows this area as future Commercial transitioning to Very Low Density Residential along US Highway 84. The *Joint Town County Planning Commission Zoning Discussion 2010* map recognizes this parcel as suitable for Industrial development. The subdivision is zoned Agricultural/Ranching (AR), as is the Colorado DNR's Skyrocket Park property to the south and private property to the east. The subdivision to the west across Highway 84 is zoned Commercial (C). Property to the north across County Road 302 (Mill Creek Road) has been annexed by the Town of Pagosa Springs, in anticipation of mixed-use development and is proposing to annex the road and have it paved within the next year or so. The developers of the Mountain Crossing development would also be required to make improvements to the intersection of Highway 84 and Mill Creek Road, when specific development is proposed.

The Fairgrounds Minor Impact Subdivision was approved in 2001. In 2005, a minor lot line adjustment was approved to convey a new 6,000 square foot block building, with indoor bathrooms, from WHEC to the County for joint use. The *Archuleta County Land Use Regulations* do not currently provide for a private events center, so the existing WHEC property would be considered a non-conforming use that cannot be changed. However, a Public Use owned by a public agency is considered a Conditional Use in any zone. In this case, WHEC proposes to convey ownership of the structure to Archuleta County when completed, with continued joint use of the two properties at the Fairgrounds. Formal joint agreements will be necessary for cross-access and parking, as well as operations and maintenance, with approval of an Amended Plat.

**Update:** Staff suggested concurrent review of a Sketch Plan of an Amended Plat, to identify any concerns. Applicants submitted a conceptual sketch of a Minor Lot Line Adjustment with a new boundary line along the north side of the Event Center, then back along the south side of the access easement and drainage detention pond (Attachment 7).

The Events Center is proposed to be a public use facility, to be used for Equine events, rodeo, 4-H events, and Education & Training events. The facility would also be used for the primary annual events—the Red Ryder Rodeo and Archuleta County Fair—but would (according to Applicants) simply bring existing use under cover rather than adding additional traffic. Any events at the facility would have to meet the performance standards in Section 5.4.2 of the Land Use Regulations, limiting sound levels, vibration, smoke, and emissions, as well as requiring screening of any outdoor storage. Existing parking lot lighting will need to be replaced to meet the "dark skies" requirements for shielded lighting (Sec. 5.4.4). Parking for the Red Ryder Rodeo is limited by available seating; no parking plan was provided, and parking on-site is haphazard

(without markers or flaggers) which increases chances for crashes and does not provide clear emergency (fire/ambulance) access. Access and parking is restricted during the County Fair. A turnaround may be necessary at the facility to meet County Road & Bridge standards.

There is also an RV hook-up located on site for a seasonal caretaker. Although residential occupancy is typically limited to 30 days for a Lodging Use by the *Archuleta County Land Use Regulations* and adopted Building Code, the Land Use Regulations do provide for occupancy of an RV for up to 120 days a year with a Temporary Use Permit to assure public health and safety. (See Section 5.5.8 of the Land Use Regulations.)

No public comments have been received. This application and the concurrent Variances were referred to local utilities and regulatory agencies for review, as provided in Section 2.2.5.

Comments received include:

- County Engineering expressed concern that there is not enough improved gravel parking for horse trailers and vehicles using this arena.
- County Engineering accepted the Drainage Study provided by Davis Engineering, and requested the design engineer sign and seal approval that improvements are built according to plans.
- Pagosa Fire Protection District noted that the gravel access road does not meet the fire code requirement that access extends to within 150 feet of all portions of the facility. The District may be willing to grant an exception to increase the distance to 160 feet, if access can be provided to both north corners of the proposed building. The Fire District would require detailed building plans for review prior to issuing a building permit.
- Town of Pagosa Springs Planning Director commented that the Town is pursuing annexation of Mill Creek Road in conjunction with the Mountain Crossing development which will pave the road back to the asphalt plant; there should be consideration of constructing pedestrian facilities (sidewalk or trails) along the road; dust control may be necessary; and parking lot lighting should be shielded (dark skies requirements).
- CDOT review indicated the existing access on Mill Creek Road should provide adequate access; however:
  1. The westernmost access onto Mill Creek Road (on County property) is too close to Highway 84.
  2. Existing uses likely warrant improvements at Highway 84 and Mill Creek Rd.
  3. The existing access onto Highway 84 is too close to Mill Creek Rd and will need to be closed.
  4. A traffic impact study may be required.

An events center would typically have limits on operations to assure compatibility with near-by residences; however, the facility will be ultimately operated by Archuleta County. After initial review, WHEC met with County staff to draft an initial proposed joint Operations Plan (Attachment 3). Management aspects will need to be worked out in a Development Agreement or similar document. For example, the proposal to use port-a-potties instead of the existing restrooms would not be permitted by the Land Use Regulations, since the project is located within a public sewer district.

Addition of a gravel parking area on the east side of the arena, similar to the west side, would address concerns of both the Fire District and County Engineering, and provide a turnaround

during the Fair. A phasing plan may be necessary to address improvements to the intersection of Highway 84 and County Road 302, with participation by the County and Town. It may be worth proposing to CDOT that the main entrance become right-in/right-out, at least as an interim measure until further improvements are made to the intersection. CDOT approval will be necessary prior to issuance of a County Building Permit.

The review criteria for a Conditional use Permit in Section 3.2.3.4 of the *Archuleta County Land Use Regulations* include:

- (1) The relationship and impact of the use on the development objectives of Archuleta County.
- (2) The effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.
- (3) The effect of the use upon traffic, with particular reference to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, sidewalks and parking areas.
- (4) The effect of the use upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses.
- (5) The adequacy of the design features of the site to accommodate the proposed use, including but not limited to accessibility, service areas, parking, loading, landscaping and buffering, lighting, etc.
- (6) The effect of the use upon the natural resources and wildlife habitat areas.
- (7) Such other factors and criteria as the Planning Commission and the Board of County Commissioners deems applicable to the proposed use.

Finally, before acting on the application, the Board must make the findings under Section 3.2.3.5:

- (1) That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- (2) That, if required by the proposed use, there are adequate and available utilities and public services to service the proposed use, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to, sewage and waste disposal, water, electricity, law enforcement, and fire protection.
- (3) That the proposed use will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, etc.

Applicants discuss justification of their request in their narrative (See attached). Construction is proposed to be funded mainly by private donors. The project is intended for the public good, to provide a safe, secure and weather-proof facility that can be utilized year-round. Also, the new building will present a better, more functional facility for the County Fair and Red Ryder Roundup Rodeo.

The Archuleta County Planning Commission held a Public Hearing on Wed. July 27, 2016, (Minutes attached). Applicant's engineer, a WHEC board member, and two others spoke in favor of the proposal. The Planning Commission discussed adequacy of existing parking and review comments from County Engineering and Pagosa Fire Protection District; CDOT requirements for Highway 84; long-term facility management, and provisions for the caretaker RV. The Planning Commission then unanimously recommended approval (4-0) with conditions.

The Archuleta County Board of Adjustment held a Public Hearing on Tuesday, August 16, 2016. The Board discussed concerns about joint operations as a Public Use and options for property ownership, annexation and paving of Mill Creek Road and disposition of joint access, and the unique nature of the County Fairgrounds. The Board of Adjustment then approved four requests for Variance from Development Standards for paving, parking lot landscaping, a landscape buffer along Highway 84, and setbacks from property lines.

#### RECOMMENDATION AND FINDINGS

If the Board concludes that, based on evidence provided the Applicants have met the goals and objectives of the Land Use Regulations, then **staff would recommend the Board of County Commissioners 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 Board approves the request by Western Heritage Events Center, Inc, for the WHEC Agricultural Education and Equestrian Event Center Conditional Use Permit (CUP), on Lot 2M, Fairgrounds Minor Impact Subdivision, with the following conditions as recommended by the Planning Commission:**

1. Approval is contingent on the Board of County Commissioners' acceptance of proposed improvements; approval shall run with the proposed Events Center facility.
2. Uses will be limited to those described in the application and those approved by the Archuleta County Administrator.
3. All events shall be conducted in compliance with the Performance Standards in Section 5.4.2 of the *Archuleta County Land Use Regulations*, including (but not limited to) volume of sound, vibration, and emissions.
4. All outdoor lighting shall be installed in compliance with Section 5.4.4 of the *Archuleta County Land Use Regulations*.
5. A seasonal caretaker may occupy an RV on-site for up to 120 days per year.
6. A fire lane shall be provided on the east side of the arena.
7. Applicants shall apply for a Development Agreement for review by the County Attorney and approval by the Board of County Commissioners, providing for cross-access and parking, and continued joint use, operations and maintenance.
8. Addresses for structures on this parcel shall be updated according to County policy.
9. Applicant shall submit a complete Building Permit application within one year of final approval, as required by Sec. 3.2.3.6 of the *Archuleta County Land Use Regulations*.

**And that the Board instruct staff to draft a Resolution memorializing these Findings and Conditions of Approval at the earliest public meeting.**

**PROPOSED MOTION**

**I move to approve the Western Heritage Events Center, Inc, request for the WHEC Agricultural Education and Equestrian Event Center Conditional Use Permit (CUP) with Findings A and B, and conditions 1-9 of the Staff Report, and instruct staff to draft a Resolution stating Findings and Conditions of Approval.**

**ATTACHMENTS.**

Attachment 1: Area Maps

Attachment 2: Review Comments

Attachment 3: Applicant's Narrative and Operating Proposal

Attachment 4: Building Plans 7/26/16

Attachment 5: Site Plan 7/19/16

Attachment 6: Planning Commission minutes for July 27, 2016

Attachment 7: Boundary Line Adjustment Sketch Map (11/03/2016)