



VILLAGE OF RUIDOSO  
Village Hall  
313 Cree Meadows Drive

PLANNING COMMISSION  
REGULAR MEETING MINUTES  
January 5, 2010 2:00 PM



**1. CALL TO ORDER & ROLL CALL**

The meeting was called to order by Chairman Glen Barrow at 2:02 pm. Roll call was taken. Members present were Chairman Barrow and Commissioners Barnett, Hood, Alborn, Williams and Hirschfeld. Commissioner Dutton was absent at the beginning of the meeting but arrived at approximately 4:20 pm.

Staff present was Village Attorney Daniel Bryant, Planning Administrator Robert Decker and Staff Planner Jennifer Williams. Village Manager Debi Lee, Deputy Village Manager Bill Morris and Building Official Shawn Fort were present in the audience.

**2. CERTIFICATION OF COMPLIANCE WITH RESOLUTION 2009-01**

Mr. Decker stated that we are still working off of last year's resolution. He stated that everything was published as required.

**3. APPROVAL OF AGENDA**

Chairman Barrow asked if there were any changes to the agenda. Chairman Barrow asked if item "B" under Public Hearings needed to be changed on the agenda or if it should be tabled. Mr. Decker suggested that the item just be tabled to the next meeting once we got to that point in the meeting.

Commissioner Hood stated that when she looked at the packet for item "A" under Public Hearings, she read that the legal noticed stated that Planning Commission was to hear this item on January 10, 2010 which is Sunday. She added that she looked in the newspaper and it states that the item is supposed to be heard on January 10, 2010 as well. She felt that there was no legal notice published for the public hearing on the correct date.

Commissioner Alborn stated that actually both public hearings, A & B, stated January 10, 2010.

Attorney Bryant went through the list of property owners within 200 feet who received notice of the public hearing regarding case PV0-001. As he read the list, he asked if that person or anyone representing that person was present. He asked if anyone was in the audience who was at the meeting to speak on the case. He added that it was his opinion that the public hearing notice was not sufficient and that the public hearing could not take place at that time. He suggested the item be tabled to the next regularly scheduled meeting.

Commissioner Williams asked if a special meeting could be arranged. Eric Collins approached and stated that the owner of the property isn't in that big of a rush to do a special meeting. He felt that it was fine to wait until the February meeting.

Chairman Barrow stated that as he understood it, the items would be opened and then continued to the next regularly scheduled meeting. He asked for a motion to approve the agenda.

**Commissioner Hood made a motion to approve the agenda. Commissioner Barnett seconded the motion and the motion passed with all eyes.**

#### 4. APPROVAL OF MINUTES

##### A. Special Meeting – December 15, 2009

**A motion was made by Commissioner Barnett to approve the revised minutes which were presented to the Commission before the meeting. Commissioner Alborn seconded the motion and the motion passed with all ayes.**

#### 5. PUBLIC HEARING

- A. PV10-001 – Variance Request – Lot 3A, Block 7, Wingfield Homestead 2<sup>nd</sup> Addition; James Lattimer, Applicant – DT Collins & Associates, Agent

**A motion was made by Commissioner Hirschfeld to continue the case to the next regularly scheduled meeting. Commissioner Barnett seconded the motion and the motion passed with all ayes.**

Attorney Bryant asked that his notes be included in the record for today's meeting in regards to trying to identify any members in the audience who might be present to speak about the case. Mr. Decker stated that those notes would be attached to the minute record.

- B. PZA10-001 – Zone District Amendment – Lot 15A, Block 1, Forest Heights Subdivision; Wayne Usrey, Applicant

Mr. Decker stated that the applicant requested that this item be continued to the next regularly scheduled meeting.

**A motion was made by Commissioner Hirschfeld to continue the case to the next regularly scheduled meeting. Commissioner Williams seconded the motion and the motion passed with all ayes.**

Attorney Bryant went through the list of property owners within 200 feet who received notice of the public hearing regarding case PZA10-001. As he read the list, he asked if that person or anyone representing that person was present. He asked that his notes be included in the record for this item as well.

#### 6. REGULAR ITEMS

- A. PSD09-002 – Revised Site Plan – Lot 2A – 8, Block 3, Riverside Addition; Thomas Farrell and Shari Smith, Applicants – Shaw Engineering, Agent (Tabled from December 15, 2009 Meeting)

Deputy Village Manager, Bill Morris approached the podium. He reminded the Planning Commission of the facts of the case. He added that the restaurant is a permitted use and that staff again recommended approval subject to the conditions being met that were previously listed as items 1. through 7.

Chairman Barrow stated that the item was tabled because there was an issue regards to a meeting between the applicant and the neighbor to the east.

Mr. Morris stated that he just wanted to remind the Planning Commission that the criteria for this site plan is listed in the staff report and all those criteria have been met.

John Shaw stated that he presented Mr. Decker with a letter earlier in the day and asked if the Planning Commission received the letter. Mr. Decker stated that he could make copies for everyone. Mr. Shaw stated that he had copies and would hand them out if allowed to. Attorney

Bryant determined that he could hand out the letter. Chairman Barrow called a short break to allow the Commission to review the letter.

John Shaw was at the podium at the return of the meeting. Chairman Barrow stated that he felt like everyone had time to review the letter. He added that the letter along with the photos explained all that took place at the meeting. Chairman Barrow asked if Mr. Shaw had anything to add. Mr. Shaw stated that he did not.

Michael O'Brien approached the podium. He stated that they had spoken about a few other items beyond what was in the letter. He stated that as the sun starts to go down, you can see that if there was a building there it would block the sun. He also commented on some live cam photos that the Commission was given and how the sun reflected at the various times of day. He added some additional points regarding the shade and ice. He also added that they talked about a few other topics such as moving the building, the snow coming off the building, the retaining wall and the view that the building has at its current proposed location.

Rick Albors approached the podium and asked a few questions regarding the hearing. He asked if the Commission was allowing new testimony.

There was brief discussion as to if the case was a regular item or public hearing. Attorney Bryant corrected his statement and stated that the case is a regular meeting. He did ask that all those who testified be put under oath.

Thomas Farrell approached the podium and asked the Commission where the project stands.

Attorney Bryant asked Chairman Barrow if he could take a minute to ask some questions so that he could be sure that the record reflected the correct information. Attorney Bryant asked Mr. Farrell to describe to the Commission what the original drawings depicted. Attorney Bryant and Mr. Farrell discussed exactly what the drawing showed, what the drawing was labeled and how the drawing was modified to date. They continued to discuss other elements of the original drawings. Then they discussed various elements of the two drawings labeled North Elevation and West Elevation. They discussed changed to the roof line. Mr. O'Brien asked if he could look at some of the drawings as well. There was some discussion between Mr. O'Brien and Mr. Shaw regarding the height of the original roof line and many other elements of the drawings.

Mr. Morris reminded the staff that the height of the roof line is determined by the average of the roof line, not the highest point and that it does comply with Village Ordinance.

Michelle O'Brien approached the podium and was sworn in. She wanted to state her objection regarding the building. She felt like it was too close to her & that the drainage and runoff of rain and snow hadn't been addressed. She added that she just wanted to see them consider that the building be move to the back of the lot.

Mr. Shaw approached the podium. He stated that after the meeting on Thursday, they did try to reposition the building on the computer. He added that in every other way that they tried to relocate the building, they lost 4-8 parking spaces. They also had to look at the slope of the land in placing the building. The location of the building is in the best position to accommodate runoff of the building. There was continued discussion about runoff and it was adequate to hold runoff.

Michelle O'Brien stated that this was the first she had heard of a retaining pond. Mr. Shaw clarified that the pond would be both a retention pond and planter. It will be both a retention pond and landscaping.

Commissioner Alborn asked Mr. Shaw if there was a 4' easement from the adjoining property on the retaining wall. Mr. Shaw indicated that there was a 10' easement.

Mr. O'Brien asked if anyone had considered what would happen to the snow that comes off of the building. Mr. Shaw approached and stated that he already stated that one of the reasons that

they moved the building was because they wanted to have plenty of room to allow of snowfall to be maintained on their property and allow for removal if necessary.

Commissioner Hirschfeld addressed Attorney Bryant, he stated that he made a motion previously that the plan be approved with the 10.5' setback and asked what else had changed. Attorney Bryant stated that the building had been moved 10.5' to the south away from Sudderth, in addition it has been moved 10 additional feet to the west away from Michelle's and the roof line was changed.

Commissioner Hirschfeld then referred to the November 3, 2010 and asked Attorney Bryant what the purpose of that meeting was. Attorney Bryant then referred to the minutes from the November 3, 2010 meeting stating that there was some discussion about the meaning of the words "and to remind all parties that everyone is going to work together to try to make it work for the neighbors". The dispute about the language that arose at the December 15, 2010 meeting was whether or not there was a specific condition that approval was not effective until there was a meeting between the two parties. What occurred between December 15, 2010 and today is that there was a meeting but that it apparently did not resolve all that was disputed with respect to the proposal.

Commissioner Hood stated that she went over the plans, the recommendations and the Village code and she had some questions. It's been recommended by the staff that there be a consolidation of the number of parcels involved and she didn't see any information in regards to that. She added that she hadn't heard anything about the size of the retaining walls, whether or not they are engineered. There is not enough information about the sign, there is not information about the lighting and there is also a note about a private sewer line to be connected. She added that she would like more information regarding that private sewer line. The plans are all marked preliminary and she added that she would like to know if these were preliminary or final plans that are being approved. She stated that she was unhappy that this has dragged on so long. There is no indication of where the trash area is which is required by the code as is the building and roofing materials. There is no information about the parking along Butler and how that is going to be accomplished. In addition, she added that all the drainage plans show only the site development plan and does not show anything to either side east or west nor does it show anything on Butler or Sudderth. She said that she wanted to get this on the road but she also felt that it was important to have all of the information that the code requires.

A break was called by Chairman Barrow.

Village Deputy Manager, Bill Morris, stated that many of the items that Commission Hood listed will be addressed at the time of issues of building permit. He went through the list and indicated which items would be taken care of at building permit issue and how the other items were or will be addressed.

Commissioner Hood thanked Mr. Morris for his interpretation. She referred back to the code and stated that all of the items that she brought up previously are items that are listed in Sec. 54-67 are supposed to be in the contents of application for a site plan. She stated that how the Village plans to take care of these issues is fine, the reason that it should be included in the site plan is because the Commission needs to understand what all of those items are so that an adequate discussion can take place regarding the effects of the development on the neighborhood and the health, welfare and safety of the community.

There was continued discussion about the drainage and the effect of the surrounding properties.

Chairman Barrow asked for clarification as to whether or not the items that Commissioner Hood spoke about were in fact left out of the application packet. Attorney Bryant stated that he was looking at Sec 54-67. He stated that part of what we have to keep in mind is that there are two types a site plans. Site plans that are submitted on what was vacate property and site plans that are submitted when already occupied land is being used. The issue is, are you increasing or altering drainage from what was already there. There is a drainage plan in the packet which shows drainage direction.

Attorney Bryant stated that the Village does not require that all of the building permits be applied for and obtained prior to Site Plan Approval. The idea is for the applicant to obtain site plan approval before they go through the expense of hiring an architect to prepare plans for the actual building.

Attorney Bryant reviewed the list of Commissioner Hood's notes which were previously brought up. He commented on how he felt that those items would be addressed.

Commissioner Alborn stated that he went up to Butler Street and had some concerns about the parking that is planned for that area. He stated that he had heard that Butler Street was going to be turned into a one way street. He asked how long it would be before something happened there at Butler. Village Deputy Manager, Bill Morris stated that the Village had plans to turn Butler into a one-way street. He added that he felt like it would happen within a month or so.

**A motion was made by Commissioner Barnett to approve PSD09-009, Site Development Plan with conditions stated. Commissioner Hood seconded the motion.**

Commissioner Hirschfeld stated that he would like to see the lot consolidation done as a condition. Chairman Barrow stated that it was already listed as a condition. He also asked if Commissioner Barnett would consider changing her motion to include a condition that states that "any substantial changes to the site development plan come before the Commission". Currently the condition states that the changes come back to the Village not to the Planning Commission.

Chairman Barrow stated that he had one comment in regards to item 4 of the conditions which stated that the applicant must minimize erosion and keep eroded material onsite. He stated that he would like to greatly enhance that and say that all eroded materials need to be kept on site.

**Commissioner Barnett amended her motion to include the changes as indicated in the discussion. Commissioner Hood seconded her amendment. The motion carried with all ayes.**

## **7. PUBLIC INPUT**

No public input.

## **8. STAFF REPORTS**

### **A. DISCUSSION OF THE FOLLOWING ITEMS:**

#### **I. Code Enforcement Update**

Mr. Decker stated that Kalama Davis wasn't available and offered to email his report to everyone.

#### **II. Zoning 101 Workshop Update**

Mr. Decker stated that the Zoning 101 workshop is tentatively set for 01/29/10.

#### **III. Building Requirements – Shawn Fort**

Commissioner Hirschfeld stated that at one of the previous meeting there was a question in regards to building a house or a cabin in C-3 and what the requirements are versus building in residential. Shawn stated that zoning has nothing to do with determining if a building is residential or commercial. He added that the occupancy is what makes something residential or commercial. One and two family houses and townhouses not more than three stories in height are residential and all others are commercial. The Commission and Shawn Fort discussed some different scenarios of what would make a structure commercial versus residential.

Attorney Bryant discussed what the definition of residential and commercial in property tax law.

#### IV. Discussion on meeting schedule for 2010

- i. Two meetings a month
- ii. One meeting a month with second if necessary
- iii. Continue with one meeting a month

Mr. Decker asked the Commission what they wanted for the meeting schedule. He asked if they wanted to meet formally twice a month or one meeting a month and a second as needed.

Commissioner Hirschfeld stated that he suggested having two meetings a month but then thought that one meeting a month then two meetings every other month.

Commissioner Hood said that the problem that she saw with one meeting a month and a second meeting only if necessary is that there is no defined schedule. She said she liked the idea of a second meeting every other month because it gave a defined schedule.

Mr. Decker stated that meeting schedule would be easy enough to establish. Mr. Morris added that the second meeting could always be cancelled if nothing was on the agenda.

Attorney Bryant stated that as long as the meetings are on Tuesdays, then those dates would be fine with him.

Commissioner Barnett stated that she thought that doing away with the second meeting would give the staff enough time to get complete applications together.

Mr. Decker stated that we could use the second meeting primarily for study sessions and other kinds of workshops.

Commissioner Barnett stated that she didn't have a preference. Commissioner Williams stated that twice a month would be fine and the second meeting would be cancelled if necessary. Commissioner Hood stated that she felt it needed to be more than once a month but how that second meeting occurs she doesn't have a preference.

Chairman Barrow stated that his feeling was that until the Council approved even one ordinance change that the Commission suggested, he wasn't really interested in having two meetings a month. He added though that if that is what the Commission wanted then he would go along with that decision.

Mr. Decker stated that this isn't an action item, that staff is just trying to get the Commissions feeling about it.

Chairman Barrow stated that he felt the consensus was that there are going to be two meetings a month with the idea that the second meeting could be cancelled if necessary.

Commissioner Hirschfeld stated that he wanted to clarify that the second meeting was going to be used for workshop or study sessions unless otherwise approved at a previous meeting by the Commission.

#### V. Review of Sign Code

Mr. Decker stated that Commissioner Hirschfeld asked for a review of the sign code. He asked the Commission if there were specific concerns or language about the sign code that needs to be addressed or changed.

Commissioner Hirschfeld stated that he thought that moveable letter signs are not allowed. He stated that he couldn't find the specific area of the code where it says those particular signs are not allowed.

Mr. Decker stated that there are some provisions in the code that do allow a percentage of signage to be temporary.

Chairman Barrow stated that the LCD signs should be addressed as well.

#### VI. Special Meeting Request for January 19, 2010

Mr. Decker stated that this meeting was no longer necessary.

### 9. COMMISSIONER COMMENTS

Commissioner Hirschfeld stated that he had asked previously that they get more than a list of monthly building permits. Mr. Decker stated that Shawn Fort could update the Commission on red-tags. Mr. Decker stated that there was a change of use of a retail space to a restaurant. We verified that there was still adequate parking for that use but notified the owner that any special events that were to take place at the site would require an updated site plan showing the parking. Other than that, Mr. Decker stated that not a lot is going on.

Commissioner Hirschfeld asked what Kalama's workload is and was he getting any relief. Commissioner Dutton stated that he had talked to Kalama and he said that of course he could use some help, even if just part time help.

Commissioner Dutton said he wanted to just state that the black car on Mechem is still sitting on Mechem. The other item that he wanted to mention is the truck that is advertising a roofing contractor at Innsbrooke Village. Mr. Decker stated that if they are working there, then he is allowed to have that truck on site.

Commissioner Barnett asked if any of the canvas carports around town had fallen in because of all of the snow.

Chairman Barrow stated he had a comment and passed out a letter of resignation to staff. He stated that he is willing to work through the April 6, 2010 meeting to allow for a transition. Other Commissioner's commented on their work experience with Chairman Barrow and thanked him for his service.

### 10. ADJOURNMENT

The meeting was adjourned at approximately 4:30 pm.

These minutes prepared January 19, 2009

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Jennifer Williams, Staff Planner

These minutes approved and accepted February 2, 2010

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Glen Barrow, Planning and Zoning Commission Chairman