



VILLAGE OF RUIDOSO
Village Hall
313 Cree Meadows Drive



**PLANNING COMMISSION
REGULAR MEETING MINUTES**

MAY 4, 2010 2:00 PM

1. CALL TO ORDER & ROLL CALL

The regular meeting of the Planning Commission was called to order by Chairman Beth Hood at 2:04 pm. Roll call was taken. Members present were Chairman Hood, Vice Chairman Dutton, Secretary Sayers, Commissioners Cowan, Cornelius, Hinz and Wimbrow.

Staff present was Deputy Village Manager William P. Morris, Lincoln County Commission Attorney Alan Morel, Building Official Shawn Fort, P and Z Administrative Assistant Janet T. Lynn.

Mayor Gus Raymond Alborn, Forestry Director, Dick Cooke and approximately 12 citizens, visitors and members of the press attended the meeting.

2. CERTIFICATION OF COMPLIANCE WITH RESOLUTION 2010-01

Mr. Morris stated that we were in compliance with Resolution 2010-01.

3. APPROVAL OF AGENDA

Chairman Hood requested that Eric Collins, D.T. Collins & Associates, Agent approach the microphone. She stated that the replat was not scheduled on the agenda. Mr. Morris explained that the plat could be scheduled if the variances were approved. Chairman Hood asked Mr. Collins if it was his expectation that the commissioners were going to address the replat and the variance during this session. Mr. Collins stated that he was willing to proceed as necessary. Mr. Morris clarified that the section that would be used for the replat if the variance was approved was Sec. 54-284, this would allow the planning administrator to replat the property based on all of the decisions within this request. Chairman Hood thanked Mr. Morris for the clarification because according to the Open Meetings Act, if something is not on the agenda, the commission can not proceed, but because this is an administrative function if the variance is approved, she asked for a motion for the approval for the agenda.

A motion was made by Commissioner Sayers to approve the agenda. The motion was seconded by Commissioner Hinz. The motion passed with ayes.

4. APPROVAL OF MINUTES

A. Regular Meeting – April 20, 2010

Chairman Hood asked for a motion to approve the minutes. She point out that there were two sets of minutes in the packages. The second set was for information only and was a record of the joint meeting with the Village Council in April. The motion was made by Vice Chairman Don Dutton to approve the minutes. The motion was seconded by Commissioner Sayers. The motion passed with all ayes.

5. PUBLIC HEARING

B. PV10-005 – Variance, Lot 14, Block “N” Ruidoso Springs Subdivision; Gilbert Skar, Applicant – D.T. Collins & Associates, Agent

The planning commission reserves the right pursuant to NMSA 1978 10-15-1 H.(3) to close the meeting to conduct an executive session for deliberations and receipt of legal advice on any item for which a public hearing has been conducted, and testimony, exhibits or other evidence considered.

Chairman Hood requested that people wishing to speak on this issue approach the podium to be sworn in. Shawn Fort swore in Mr. Collins, Mr. Gilbert Skar and Bruce Peterson.

Mr. Morris started with a PowerPoint presentation and stated that this was a request for a series of variances on a piece of property located on the north side of Wingfield Dr. just to the east of Grindstone. The applicant was seeking a series of variances to allow for a splitting of a single lot of record that has two residences on site. The property is zoned C-1 and is just under .2 acres in size. To replat this, the applicant is requesting to make 2 lots out of this single lot. Mr. Morris showed how the two structures were situated and explained that the lot was already substandard in size for the C-1 zoning district and would need a number of variances to accomplish the request. The pictures were declared as fair and accurate representations of the property and the discussion continued. A number of questions were asked including: impact fees, tap fees, setbacks, typical standards, sewer, parking and ages of the houses.

Mr. Collins stated that Mr. Morris’s presentation was accurate and stated that this was a commercial zone and that the back house would always be used for residential. The front house could still be used for commercial purposes.

Secretary Sayers questioned the parking for the front property.

Commissioner Hinz asked if the property was bought as is and being split for resale purposes.

Chairman Hood asked Mr. Collins specifically if he was asking for a conditional use of the property along with the variance. Mr. Collins answered yes, that he was asking for a conditional use for the back lot to be used only for residential use. He stated that it was in the application.

Vice Chairman Don Dutton pointed out that the variance and conditional use would be down-zoning from C-1 to residential although residential use is included in C-1.

Mr. Morris clarified that the applicant would place the restriction on the plat so that all future buyers would be subject to residential use only.

Commissioner Hinz questioned if there were any other lots in this area had been split and would it create a substandard lot. Mr. Morris stated that this was already a substandard lot for C-1.

Mr. Morel shared his concern with Vice Chairman Dutton regarding the future use of the property for a C-1 property. Deed restriction should be put on the plat and on the deed if the variance is approved.

Vice Chairman Dutton stated that he did not see this variance as an upgrade.

Chairman Hood commented that the Comprehensive Plan should be addressed when looking at this variance request.

Secretary Sayers asked if Mr. Skar had purchased the property in October 09 hoping to get this variance for his two children for summer homes. He answered, yes.

Vice Chairman Dutton asked Mr. Morris to guide them to the ordinance that applied to dividing lots less than one acre. Is it for R-1 or Commercial? Mr. Morris answered that it was Sec. 54-92 (e) (1) aa. 1. It is for residential only.

Commissioner Hinz pointed out that there was a variance request for fencing. Mr. Collins stated that he wanted to address the variance for the fence that was already there.

Chairman Hood asked if anyone from the public that wanted to address the commissioners.

Mr. Bruce Peterson approached stating that he owns the property at 84 and 86 West Texas St. He is concerned that the Ruidoso Springs Subdivision is old and that the lots are small and should be going larger, not smaller. He wants his property to be worth more and he does not want the properties to become more congested, the properties are already too small.

Chairman Hood stated that the application had only the replat and variance checked off. The conditional use subject was not on the application or on the agenda.

Mr. Morris stated that the conditional use was a lesser use from the C-1. The use would be grandfathered and does not necessarily need to be addressed.

Chairman Beth Hood closed the public hearing.

Commissioner Wimbrow and Commissioner Cornelius commented that they were not comfortable with making two smaller lots on this property.

Secretary Sayers stated that there was already an overuse of the property.

Commissioner Cowan had negative feelings about the variance and suggested that it was more of a civil situation.

Mr. Morel pointed out that Sec. 54-66, definition of a variance, that it does not meet the standards of the definition of the requirements for a variance.

Vice Chairman Dutton requested that they all read most of Sec. 54-66 where it states “variances may only be granted for hardships relating to the physical characteristics of the land and should normally be limited to regulations pertaining to the height or width of structures or the side of yard and open spaces where a departure from the literal interpretation of this article will not be contrary to the public interest or establish a precedent that would undermine the purpose and intent of this article as described in Sec. 54-32.”

Vice Chairman Dutton suggested that if the variance were granted that it would be going against the purpose and intent of the article in that there are no physical characteristics of the land. It would be contrary to the public interest and a precedent would be established that would undermine the purpose and intent of the variance. He therefore made a motion that the **Variance PV10-0005 be denied** because it is not in keeping with the health, safety and welfare of the Village nor the neighborhood and the lot would not meet the definition for granting a variance.

Secretary Sayers seconded the motion. Chairman Hood asked for a roll call. The variance was denied with all commissioners voting aye.

Chairman Hood stated that Mr. Skar had 15 days in which to file an appeal with the Village Council.

6. REGULAR ITEMS

There were no regular items.

7. PUBLIC INPUT

There was no public input.

Chairman Hood thanked the public for attending the meeting.

8. STAFF REPORTS

A. DISCUSSION OF THE FOLLOWING ITEMS:

Chairman Hood asked Building Official, Shawn Fort to discuss his qualifications. He stated that there were three inspectors on staff that hold numerous certifications in building, plumbing, mechanical and electrical. Mr. Fort recently received certification for asbestos and green building. Mr. Morris invited the commissioners to visit the offices of the inspectors and talk with them.

Mr. Morris stated that the next meeting would be a continuation of information on the comprehensive plan and he would like to have a discussion on the different types of zonings and characteristics.

Chairman Hood requested that staff begin gathering statistics for the following areas and report on them at least once a month:

- Land Development Permits
- Red tags
- Types of permits
- Tracking changes of use/ business licenses

Mr. Morris stated that he would periodically furnish the commissioner with a list of business licenses.

Chairman Beth Hood directed a question to Shawn Fort about the progress of Shinanigan's Pub and Restaurant. He responded that it was approved by the commission and a building permit was issued for construction earlier this date. Also, the Village Forestry Department met with them.

Chairman Hood asked Mr. Morel his opinion on the issue of visiting sites prior to a Public Hearing on the property. He stated that there are concerns in two areas, the liability issues and possible open meeting act violations. He stated that items that comes before the commission in a public hearing need to be heard by everyone, both applicants and those in opposition to an application. He stated that it is difficult if you go to the site, talk amongst each other and form opinions based on what you see or what you discussed. He spoke about the liability issue and the fact that the property owner doesn't want people coming onto his property and getting hurt. He continued with the second concern, the possible open meetings act violation. He pointed out that when you have a majority of the people going to a site, discussing it and visiting about what is going to come before you for a decision that you may be in violation. Having said that, he stated that it is incredibly helpful to go out and see something. He suggested if they went out to a site that they not discuss the pros and cons of the actual project that would come before them.

Commissioner Wimbrow suggested that pictures were lacking in detail. Mr. Morel said that he thought it would be ok for them to see the property as long as they didn't discuss it.

Vice Chairman Dutton totally disagreed with Mr. Morel. He stated that decisions should be made **only** by the evidence that is presented in the application at the Public Hearing.

Mr. Morel agreed and said that it is very difficult not to take in any information that you might use in making your decision and that is difficult to do when you visit a site. Commissioner Dutton suggested that even seeing the property is a mistake. He stated that going out individually was still risky.

Secretary Sayers asked if the property owner could sign a release allowing the commissioners to look at stated problem in paperwork.

Mr. Morel was still concerned about the liability.

Vice Chairman Dutton was still very much against going to the site and suggested the the Village could get in trouble.

The discussion ended.

Chairman Beth Hood wanted the commissioners to again consider splitting up the Village into seven districts and adopting them. It was suggested that it be put on the next agenda.

9. COMMISSIONER COMMENTS

Commissioner Hinz asked that at the next meeting they discuss a "homeowners guide" to compliance that would help code enforcement. He is interested in the timeframe from citation to compliance.

Mr. Morris said that they could have a discussion on how the code enforcement process works.

Vice Chairman Dutton said that it was fact driven and if the citation was taken to court, the judge would set a reasonable time limit for compliance.

Mr. Morris said that could be put on the next agenda, along with the discussion on the different zones.

Chairman Hood also noted that the subject of addresses not easily seen was a carryover that she wanted on the next agenda.

10. ADJOURNMENT

There being no further business to come before the Planning Commission, Chairman Hood adjourned the meeting at 3:17 P.M.