



Town of Alpine

Planning & Zoning Commission

Minutes

DATE: February 27th, 2007
TIME: 7:00 p.m.

PLACE: Alpine Town Hall ▪ 250 River Circle
TYPE: Regular

Attendance: Pat Marolf, Paula Stevens, Dave Gustafson and John Thomas. Kennis Lutz absent & excused. Others in attendance: see attached sheet.

1 - CALL TO ORDER

2 - ROLL CALL & ESTABLISH QUORUM

3 - TONIGHT'S APPOINTMENTS/ NEW BUSINESS:

- **HOLLBECKER, Lynne - R1-01-07 - Lot 66 RVM - 708 Palisades Lane** - Tony Nardacci has applied for a building permit as the contractor on behalf of Lynne Hollbecker. Rob W. has reviewed the plans and has recommended conditional approval excavation and footing only, plans and construction documents are being revised to reflect the 2003 IRC and correct date and signature on the engineer stamp. Joe S. has also recommended conditional approval, there is one property pin that needs to be located and Mr. Nardacci is planning to have a surveyor locate the property pin. Tony N. explained that he had revised plans coming that reflected the information that Rob W. had requested. He also explained that he had scheduled to have Surveyor Scherbel come and located northwest and the northeast property pins. **Paula S. motioned to approve building permit conditional upon first confirmation from Surveyor Scherbel of the property pin locations, second conditional approval of the excavation and footings only at this time. Paula S. explained that the motion only goes so far as permission to get the excavation and footings done, there was some discussion about if he would have to come back before the board for approval of the plans. Tony N. stated that the only thing that will change on the revised plans is the verbiage to reflect the IBC rather than the UBC. Paula S. revised her motion, first conditional upon location of the property pins, second conditional upon excavation and footings only until Rob W. receives the additional information he needs and approves. Pat Marolf seconded. VOTE: 3- Yes; 0- No; 0 – Abstain; 2- Absent.**

4 - UNFINISHED/ONGOING BUSINESS:

- **BULLMOOSE Building permit-** Discuss and resolve issue of expired building permit and extension. Also address issue of “as built plans” for the building. Dave G. suggested the board take a minute to review the information they have just received tonight. Dave G. stated that there were two issues before them, one is the permit and the other are the changes to the approved plans. Dave G. noted that the permit and extension have been expired for 158 days. John T. arrived at this time, and is brought up to date on the meeting. Dave G. asked if the board was ready to discuss the issue, he emphasized that he building official as per the UBC code does have the authority to determine what action takes place. Rob W. does want the support of the P&Z Board and the Town Council before he does anything. Dave G. noted that this was the first step at trying to resolve the issue. Dave G. continued with a brief history of correspondence with the Bullmoose regarding the expired permit. He appreciated that everybody was here tonight to resolve the issue.

Paula S. stated that she had three concerns, first is the health, safety and welfare. She stated that whatever the outcome the Commission needs to confirm that there would not be any health, safety or welfare issues with the building. Second she addressed the additional time that staff members have put into the project, and that she wanted to make sure that time and work is accounted for. The last concern she had was that the outcome be fair and reasonable under the circumstances. She would also like to ask Jim Blittersdorf to address the Commission with regard to his concerns. She stated that his comments would be used in helping her make her decision tonight. Dave G. referenced the last letter sent to the Bullmoose, which referred to the Town ordinance 64- Ordinance 1998 -64. The town code requires that once a permit is issued it is good for one year and an extension for one additional year, if the project is not completed within the second year the permit shall be subject to the full process for a new application together with full application fees. He stated that he referenced this ordinance in the letter and he confirmed with the office that this was not deleted when the IBC was adopted. But this application is still under the UBC, unless 180 days goes by without a permit. The Bullmoose permit has been expired for 158 days.

Dave G. stated that the Town code has to be at the least as stringent as the UBC if not more so. Pat M. agreed with Paula S. regarding the health, safety and welfare issue He feels the inspections are important not only to cover the Town but also the owner. Dave G. commented that they wanted to handle the expired permit first; he again stated that it is the building official's determination to require another building permit with complete fees. But Rob W. does want the support of the P&Z and the Town Council. He then asked for comment from the public on the expired permit and new fees. Jim B. started with the time frame and permit issue, the issue is a current court case in federal court. The time frame is one of the issues, because he believes that the Town delayed the permit process and this is why the building is not done. His attorney has spoken with the

attorney for the insurance company for the Town and put them on notice regarding this issue. The first year the permit was issued the summer was wasted and then in August the Town sued them and they could not hire a contractor. He stated it is real simple why for two years it was wasted; it is his position and his attorney that they will not re-permit this project or pay the fees. Tomorrow they will simply amend the complaint in federal court. They welcome Rob W. to come over. The building is done and they are down to carpet and setting toilets, he again stated that the building is done. Regarding the issue of "as built" verses the "original plans" they have removed one room out of the top level, he stated that Jim Stephens with the State Fire Marshal office and George Smith the state inspector have inspected the building many times and have no issue with that. They said that if you reduce the occupancy they don't need to see "as built" plans and they had no issues at all because it was reducing by taking the room out of the picture and a parking slot out of the picture.

As for the footprint, on the original site plan it was 120 feet by 28 feet wide, this foot print is exactly what is there. The building is one foot wider, due to a misprint and an issue with the man who drew up the plans, Jim B. stated that he wanted a 20 foot inside diameter and he drew a 20 foot outside diameter. He commented that he went over this with Rob W. last October and this is when he was told that Rob W. needed "as built" plans. Dave G. reminded him that he wanted to address the permit issue first before the "as built" issue is discussed. Jim B. stated he was pretty clear on the permit issue, it is in court and he will not pay the fees. Dave G. addressed a suggestion made by the Town attorney that the fees be placed in an escrow with the Town. Since the permit issue is the subject of a court case the fees would be held in escrow with the outcome of the litigation determining how the fees are processed. Dave G. stated that they are really trying hard and have tried in the past to work with Jim B. and to make sure they do not have these issues in the future; this might be a tool to prevent issues with the occupancy permit. He again emphasized that they are here to work this out and to discuss this.

Jim B. made a comment regarding the Town attorneys. He has copies of correspondence from Elizabeth to the Town and she uses his name in a very derogatory fashion and he will go on record tonight saying that he does not think that Elizabeth should have anything more to do with the Bullmoose verses the Town of Alpine issues. He again stated that he has copies of correspondence between Elizabeth and the Town of Alpine, and his attorney has this correspondence. He also referred to former Town attorneys Jim Lubing, who was also very derogatory as well as John Bowers. He stated, "This Town has had two attorneys and now another that he protests them having anything to do him or the Bullmoose verses the Town of Wyoming" (I believe he meant to say the Town of Alpine). Dave G. stated that he would relay this information back to the Town's attorney.

Paula S. questioned a comment Jim B. made very early in his statement, where he stated that the permit is expired because of the Town's actions. She asked him to confirm that this was currently part of the case; Jim B. stated that the original permit was issued the 18th of May and then revoked on the 15th of June and they received another permit on the 9th of September. Paula S. just wanted to confirm that this was a material part of his claim, Jim B. stated that the "clock was running because the following May they/we issued a year extension and then on the 19th of July voted to sue the Bullmoose and on the 2nd of August sued them in court and that was the end of the motel being worked on". Based on that fact alone Paula S. stated that she was extremely uncomfortable making a recommendation on this because it is currently in litigation over this matter. Paula S. is unsure of what they can do, the codes and regulations are pretty clear with regard to what a person needs to do and if they are in court over this then for them to sit here and turn a blind eye to what the regulations require knowing they may be called into court to defend what they have done either previously or now makes her very uncomfortable.

Dave G. would like to expand on that, without a valid permit how do they continue inspections and issue an occupancy permit? John T. stated that this would be a question for Elizabeth; Dave G. stated that she is available by phone. Paula S. suggested that pending the outcome of the litigation with the Town because of this permit, put the money in escrow and let the judge sort it out. They are not in the position to make a decision on this; that is why Elizabeth suggested the escrow account pending the outcome of the court case. Dave G. asked if Jim B. would consider this. He knows Jim B. is continuing to work over there and has heard he is doing a good job. But this is not the issue; he knows there have been some changes. He wants to make sure that the Town has the ability to continue inspections and if the building is acceptable by Rob W. to get him the occupancy permit.

Paula S. stated that the escrow would be her recommendation; she does not want to have to defend herself in court because they treated someone differently than someone else. She wants people to be treated fairly regardless of who they are. She stated that the regulations are very clear in this regard. She continued that she is very worried that this issue is a material part of his claim and the very fact that they are talking about it right now in front of the public is part of the case against the Town. If they say no that he doesn't need a permit and go ahead and permit the certificate of occupancy to be issued, what does that do to the Town's case? Paula S. stated that she is most comfortable with the money being held in escrow, Dave G. agreed with this and that was also the recommendation of the attorney. Jim B. asked if the fees included the water and sewer fees, Dave G. stated that only the building fees were what they were discussing. Jim B. asked what the fee was, Kimberlee J. inquired about the square footage. Jim B. stated that the building is about 6800 square feet; he was informed that the fees would be \$1,000.00. He stated he would come in tomorrow and pay the fees; he wanted the record to reflect that he would do so under protest. He intends to get Rob W. over there next week to do a final inspection. Jim B. wanted to state on the record that this Town and every single business in the Town suffers when those 22 rooms are sitting there empty and he has canceled another winter. Last summer he had the place booked solid for this winter, that is a loss to the other businesses in Town. He stated he does not have an issue with P&Z, his issue in court is with the Town and having the permit revoked and them suing his business.

Paula S. noted that the \$1,000.00 would be in escrow, Mayor DeCora questioned the process and how the money would be held. Kimberlee J. explained in the past that if a project could not be completed then the owners would issue either a cashiers check or a cash bond to the Town. The money is then given to the treasurer to hold in the safe or safety deposit box until the project is complete, at that time the money is refunded. Brenda B. further explained the process; she confirmed that it must either be paid in cash or a cashier check. Jim B. had an issue with the cashiers check, he stated that they expire in 180 days, and the court case could take longer than that. He asked permission to write a corporate check, the board accepted this request.

Jim B. asked if this was another extension, Dave G. confirmed that it brought his current permit back into good standing with the Town so that the inspections can be done and certificate of occupancy issued. Kimberlee J. inquired if she would issue another building permit. They discussed the process due to the fact that the original permit was issued under the UBC and the Town is now using the IBC. Kimberlee J. noted that there is currently another permit where the owner was issued a permit and an extension both of which expired and he had to pay new fees to update his permit to finish his project. His dates from the original permit, the extension and the new permit were all the same. The board agreed that the permit number and the dates would stay the same on the Bullmoose permit. **Pat M. moved to accept the conditional reissue of the building permit with the money for the permit being placed in escrow with the Town pending the outcome of the lawsuit. Paula S. seconded. VOTE: 4- Yes; 0- No; 0- Abstain; 1- Absent.**

Dave G. continued the discussion regarding the changes that have been made to the plans, Rob W. has concerns about the changes and making sure the changes have been taken care of. Paula S. asked if the Town will get a copy of the "as built", Kimberlee J. confirmed that the Town is required to have a copy of the "as built" for permanent record. Jim B. stated that he had five copies of the "as built" with him tonight. Pat M. wanted to thank Jim B. for his cooperation and if the work he has done on the motel is anything like the restaurant it will be beautiful. John T. added that everybody would like to see Jim B. move forward and get the project done. Jim B. left the plans for Rob W.

- **WAGNER, Rob** - Will not be present at tonight's meeting.

5 - **P&Z MINUTES: January 23rd, 2007. Pat M. motioned to approve the minutes, John T. seconded. VOTE: 3- Yes; 0 -No; 1- Abstain; 1- Absent.**

6 - **COUNCIL MINUTES DISTRIBUTUED: None**

- **P&Z ATTENDING COUNCIL MEETINGS:**

1) March 6th, 2007 *Dave Gustafson*

2) March 20th, 2007 *Pat Marolf*

7 - **ADJOURN MEETING- Paula S. motioned to adjourn the meeting at 8:00, John T. seconded. VOTE: 4- Yes; 0- No; 0- Abstain; 1- Absent.**

AFTER MEETING REVIEWS/WORKSHOPS: None

8 - **Items given to P&Z during tonight's meeting:**

- **P&Z Minutes:** None
- LINCOLN COUNTY P&Z STAFF REPORT RE: James Dorsey Project File #609 PZ 06; Hearing Notice.
- LINCOLN COUNTY P&Z STAFF REPORT RE: James Dorsey Project File #118 PZ 06, Hearing Notice.
- Legal Notice RE: Steve Dicenso Rezoning Request for Lot 9 Louis Strout Subdivision.
- Letter from Donn Wooden RE: Pre-payment of existing H2O & Sewer Fees.
- UBC information from Rob Wagner RE: permit information.
- IRC information form Rob Wagner RE: Previous approvals and amended construction documents.
- 64 Ordinance No. 1998-64 RE: Extensions and Renewal of building permits.
- Active Building Permit List dated 01/09/2007.
- Misc. letters sent and received in regards to the Bullmoose building permit.

9 -**Items mailed to P&Z before meeting:** None

Dave Gustafson

Date

Kimberlee Jansen

Date

