



Town of Alpine Planning & Zoning Commission MINUTES

DATE: **January 9th, 2007**

Attendance: P&Z members: Pat Marolf, Dave Gustafson, Kennis Lutz, Paula Stevens & John Thomas. Others in attendance: see attached sheet.

1 - **CALL TO ORDER at 7:02.**

2 - **ROLL CALL & QUORUM ESTABLISHED BY Kimberlee Jansen**

3 - **TONIGHT'S APPOINTMENTS/ NEW BUSINESS:**

- **The Town Clerk will swear in Paula Stevens for a new 2-year term.** The town clerk swears in Paula S. for a new two year term from January 1, 2007 to December 31, 2008. Dave G. also suggested each of the board members introduce themselves, since there is a new member.
- **PEARCE, Paul - Lot 304 Lakeview Estates Tract B - 159 Stoor Drive** - Mr. Pearce owns the property next to Carrie Daniel; his deck encroaches on her property. He would like to know how to proceed, can he remove the part of the deck that is on the neighboring property, and will he have to seek a variance? Paul P. explained the situation to the board; he purchased the house a few months ago. The deck on the uphill side encroaches onto his neighbor's property by roughly 40 square feet. He also explained that there is currently an attempt by Surveyor Scherbel to replat a couple of the affected lots. He also explained that his neighbor Carrie Daniel may not go along with the replat and is being very resistant to it. Paul P. stated if he could not get the replat settled with Ms. Daniel then he wished to remove the portions of his deck that encroaches onto her property; the deck is the main entrance into the home. He showed and explained the pictures to the board. Paul P. explained that he had looked for a building permit and couldn't find one; the house was finished in 1996.

Donn W. interjected; he explained that there was a building permit in the file. He stated that the former owner Bruce Cameron had secured a permit for a variance to build the deck out against the property line or what he thought was the property line. Donn W. informed the board that it is hard to tell with the encroachment just who is at wrong because some of the lots extend out into Stoor Drive. Donn W. stated when Lot 304 was being prepared to sell they called for a survey, approximately four years ago, when Surveyor Scherbel did the survey they discovered there was an encroachment. This has been an ongoing case through out Lakeview Estates, however when Bruce Cameron sold his property to William Kershaw, before they could get a clear title they had to resolve the encroachment issue. Wade Grant owned the neighboring property, he signed off and accepted the new lot line as adjusted by Surveyor Scherbel. The title company with held \$3750.00 from Bruce Cameron at the sale of this property, the title company still has this money, to pay for those five lots at \$750.00 each to make everything right. Essentially they would have to do all five lots in order to make it work so there were no future encroachments.

Donn W. stated that "Scherbel didn't get around to doing his job", he had it signed off, he had it designed and the money is at the title company to pay for this. He commented that all Scherbel had to do was put the monuments in and it would have straightened everything out, it would have shifted just enough to give him a straight line, and no one loses any ground. He continued that this has gone on and on, and the lady that owns the house now has commented that Wade Grant isn't speaking for her. Donn W. stated that this issue took place before she even bought the property, but Scherbel did not get the pins in, he stated that he has spoke with Scherbel about two weeks ago. During that conversation Donn W. questioned Scherbel about this issue. He informed them that when they designed it they had the money and all they had to do was put the pins in, he felt they should proceed with what they were intending to do. Donn W. asked if Marlowe has spoken with Paul P., Paul P. stated that Marlowe was under the impression that Ms. Daniel could not hold the project back. Paul P. also commented that Ms. Daniel offered to sell him the little chunk of property for \$5000.00; when he refused to pay her, she then hired a lawyer to harass him.

Kimberlee J. informed the board that they had searched for the building packet and could not find one. (*FYI: The Town's building department records go back to 1995, any records before 1995 are sporadic.*) Paula S. commented about the variance, she informed Paul P. if that exists then he is okay, the town has authorized him to encroach on his setbacks. Paula S. questioned the escrow money, Donn W. replied that the money was set aside when Cameron sold to Kershaw, and that has been over two years ago. He also stated this should have been done long before Ms. Daniel bought the property from Wade Grant, it wasn't done and Scherbel is the responsible party. Paula S. stated that if the letter exists, then the P&Z board. has no concerns with Paul P. Dave G. remembers there was an agreement, he stated that the two parties had come to a P&Z meeting and the issue was resolved and there should be a paper trail. Donn W. stated that Wade Grant had signed off for these two lots to be adjusted, and the other three had to be involved to prevent future encroachment issues. He also commented that he

had spoke with Scherbel about three weeks ago and they stated they just had to proceed with putting the pins in and it was Wade Grants' problem to deal with Ms. Daniel. Donn W. further stated that Paul P. should not have to suffer; he is within his rights to remove parts of the deck from the neighboring property. Paula S. commented that he has he permission from the town to have the deck in the setback, she further stated that the piece that lies across the property line is a civil matter. It is something that needs to be worked out with the parties involved. Paul P. stated that his primary reason for coming here was to find out about rebuilding the deck if he had to. He thanked the board for there time.

- **BARR, Jeanie - Lot 612 Lakeview Estates Tract C- 173 Hwy. 89** - Ms. Barr has a client that is interested in purchasing this property with the intent of turning the building into a church. She would like to request from the P&Z a letter stating that it is permissible to have a church in a B-1 zoned area. Dave G. introduced Wayne and Cecelia Neal who were representing the church. Paula S. gave her thoughts on the B-1 zoning, she stated that B-1 zoning is an additive and what ever you can do in a residential zoning district you can cumulatively do that under the business zoning district. Under the R-3, which is the most intense residential zoning district, it calls out religious facilities. Therefore when you bump that up to the B-1 zoning you can do the residential uses plus what is allowed in the B-1, she stated that you can put a religious facility within this zoning district. Because it is allowed in an R-3 therefore it is allowed in a B-1. Paula S. referenced pages 120 and 122, sections 403 and 404 respectively from the code book. Dave G. commented that he agreed with that assessment as he had reviewed the codes last week pertaining to this issue. **Paula S. moved to request that a letter be drafted certifying that the property in question is suitable and permitted to have a religious facility on it. Pat M. seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent.** Dave G. requested the secretary draft a letter to Jeanie Barr allowing the church.
- **DICENSO, Steve - Lot 8 & 9 Louis Strout Subdivision - 271 & 273 West Loop Road** - Mr. Dicenso has purchased Lot 9 and is considering purchasing Lot 8, he would like to know what the "new mixed use zoning category" would allow as far as residential and commercial limits. Dave G. confirmed that Steve D. was not present and that he had spoke with him on a prior occasion. He explained that the Town had approved an R-2 zoning in an area that the lots do not conform to R-2 zoning. Steve D. purchased a lot with the impression that it would allow multi-family housing; Elizabeth K. was consulted in this matter. Her opinion was because the Town had zoned this property R-2, even though the lots do not conform to the R-2 zoning and they could not prevent Steve D. from developing the lots as R-2. Tracy M. further explained what Steve D. intended to do with the property; the property is currently zoned multi-family residential; he has considered purchasing the adjoining lot and vacating the lot line and doing a new project of five to six townhomes.

Tracy M. stated that when they got to looking at lot 9 they discovered that the lot was only about 10,000 square feet, which doesn't meet our own standards for an R-2 lot. The town has zoned these lots R-2 but they are non-conforming to our own standards, the lot will need to be on a septic system it is concerning how to configure a duplex on this small of a lot. After consulting the attorney, it was determined that they could not prevent Steve D. from developing the lot as an R-2. This lot lies in the same subdivision that the snowmobile business is in, in the Master Plan these lots are intended for mixed use. Tracy M. commented that Steve D. might change his development plans depending on the mixed use zoning. He would like to know what he can do with these lots under the mixed use zoning. Dave G. mentioned that there are several lots that are not conforming in the area; he stated that as a board they need to be aware of that. Paula S. spoke in regard to the mixed use zoning category that the master plan envisions, they are working toward a new set of codes and regulations. She stated that right now the closest thing they have to the mixed use zoning is our PUD, but the master plan in place. The next step is to rewrite the regulations and code.

Tracy M. had explained to Steve D. that the town is in a transition phase and he understood that but he would like his questioned answered about how he can develop his property. Dave G. stated that we still have non-conforming lots in that area, Tracy M. confirmed that, and commented that we should find out when the engineer has planned for the sewer system to be installed in that area. Dave G. sees a problem arising because realtors are selling these lots as R-2 but they are non-conforming to the R-2 requirements. Dave G. would like to find a solution so this doesn't happen in the future. Paula S. questioned how many lots are in this subdivision; Kimberlee J. noted there were twelve lots and that most of them are approximately 10,000 square feet or less. Paula S. also questioned how many lots were developed; Donn W. stated there are four homes in the subdivision leaving eight vacant lots.

Donn W. explained why these lots had been zoned R-2, he said they required 17,000 square feet minimum to put a duplex on a lot. He stated that he ran into trouble with this issue because there was already a duplex there, and it was a lot that was supposed to be a duplex lot. However, when they created the new rule he could no longer do a duplex until there was a sewer system. Even though they are zoned R-2 you cannot put a duplex on them because there is not sufficient ground to do a septic system. So when the time comes, they had the intent when they were forming the master plan (master plan when town incorporated), once the sewer system was available then the density goes away and you could build a duplex on a smaller lot. He added that all the lots on Parkway Drive (Palisades Twin homes) the five units are each on an 8500 square foot parcel. In otherwords the lot was designed 17,000 square foot R-2 lot, so dividing then you can create two lots with a twin home with a zero lot line. Each one ends up with 8500 square feet with individual septic on each lot. He went onto explain that if one chose to buy two lots and do away with the lot line and create a bigger lot of 20,000 square feet. He commented that the basis was 14,000 square feet for the first unit and an additional 3,000 square feet for the each additional unit there after if using septic. Otherwise the zoning can still stay there but it cannot be used as an R-2 until the sewer is in place, however it is smart thinking to do a mixed use there because of the industrial nature of the area.

Donn W. stated that he thought the master plan that was adopted took affect immediately with its passage, he gave the green light and he shouldn't have and realized that there was more going on. He commented that in the older days they didn't do things as precisely as they are done now, he is trying to give the board some back ground to the area. Dave G. stated that with his research of the codes he had not seen anything about these R-2 lots waiting for the sewer hookup before they can be developed as R-2. Paula S. added that perhaps not of our regulations, the State will have regulations in regards to the primary leach field, the back up leach field, septic tank, distance between the system and the home among other things. Dave G. was concerned about the setbacks considering the lot sizes, Dave G. would like to know how to deal with these twelve lots in the future. Tracy M. pointed out that she was concerned about the issue of not being able to use your land as zoned until the sewer collection system is in place; it is not in writing in the town codes or on the plat for that area. She offered a suggestion of issuing a "memo of understanding" by the town's attorney and given to the owners and the realtors, this would explain the issue until it can be resolved. Paula S. commented that they would need both the Building Inspector and the DEQ to weigh in on the minimum standards for distances between the system and the home, and accessory structures and setbacks. She suggested this be done before issuing an M of U. Dave G. inquired if the town can send a letter informing and recognizing the zoning issue. Dave G. noted that they have discussed this issue with Elizabeth K. and her opinion was that they could not prevent Steve D. from developing the lot as an R-2.

Paula S. commented how they could allow something if it became a health, safety and welfare issue. Paula S. doesn't feel like she has enough information to make an informed decision, Tracy M. asked what information they would like to see, Paula S. stated DEQ requirements. Dave G. and Paula S. asked that this information be acquired pretty quickly so they can advise people of their options. Dave G. brought up the letter again; he thought it was a good idea to make the owners, realtors and buyers aware of the problems. Paula S. inquired about the sewer system in that area, Tracy M. commented that collection system will be installed in phases, she is not sure what phase this area is in. Tracy M. inquired how they would like her to proceed; they agreed that information needs to be distributed. Tracy M. asked if they would like Joe S. and Elizabeth K. at the next meeting, Dave G. commented that they need to get the information out there as soon as possible. **Kennis L. motioned to notify the property owners, realtors and buyers of this issue. Pat M. seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent.**

- **Brenda Bennett** asked that the Profit & Loss Budget vs., Actual for June 2006 through June 2007 be distributed so the board can start working on next year's budget. Dave G. commented that last year the board took an active part in the Planning & Zoning budget to submit to the Town. They plan to do that this year again. **Item was tabled until they receive profit & loss statement.**
- **Added Discussion Item - Snowmobile Business** - Tracy M. informed the board of the issue with the business located in the Louis Strout subdivision. A representative is from the business here tonight, Steve Potvin, the business has purchased a home in the Louis Strout subdivision from Mr. Wooden. During the course of the purchase there was some miscommunication where Donn W. thought the Master Plan became affective with its passage, and the zoning automatically changed. In reality there is a transition phase where the town has adopted the Master Plan but has not yet put it into affect yet by changing its code to reflect and be congruent with the master plan. The business has started operating from the home; they then realized they needed a business license, which they have obtained. At this time Tracy M. explained to them the issue with the zoning of the lot, she suggested that they move the snowmobile rentals to an adjacent property already zoned for commercial business use, until the zoning issue can be straightened out. The owners were agreeable to this suggestion.

Donn W. continued that he was the reason this misunderstanding came about, he did so with the belief that the Master Plan became affective with its passing. He wished there had been different wording that said "subject to the passing and completion of the new zoning map and subject to the final passing of the ordinance that makes everything affective". It is his belief that the area over there in regards to duplex or not might have to wait until there is a sewer system. But in the mean time the only affective way for investors over there is a combination of businesses with living quarters above or below, there is a lot of demand for this in the community. There is a lack of commercial property in the community, Donn W. commented that he was trying to find a location across the street from where the business is now located. This would allow the business to finish out the season. Donn W. further explained that the business runs ten sleds out of this location; they start about 9 AM and return about 3 PM. Donn W. commented that he had spoke with the owners of Alpine Service and Repair as a possible temporary location, the owners are in the process of removing the equipment and tools, but it will take them to about the end of the month to remove the items. Donn W. stated that there was an error on his part and realizing that they should address a penalty of some nature.

Donn W. would like the support of the P&Z and the Mayor; he handed out a letter (e-mail). Donn W. went on to explain the e-mail to the board, he stated that no matter where the business moved to they would have to pay rent, he wanted the P&Z to look at his proposal. Donn W. stated that in his correspondence with Elizabeth K. they had discussed how to phrase a possible penalty, he suggested that it be called a "tolerance permit", Elizabeth K. informed Donn W. that there was not an ordinance to support this; she suggested it just be referred to as a "penalty". Donn W. then revised this to have us, himself included, in paying a penalty. He proposed paying \$500.00 a month for a total of \$1500.00, to accommodate the rest of the season, in exchange for this he asked that they be allowed to continue to operate for the balance of this season. He explained that this is in the interest of their economic situation because they have trips booked and the machines are secured at night in a locked garage. They would immediately put up the \$1500.00 penalty and be subject to the conditions set forth, issue

number one is the parking and the business has resolved this issue.

They have agreed to keep their vehicles and trailers off the roadway. Donn W. stated that he has checked daily to make sure they are complying with this, he also spoke with Rob Wagner (*FYI: According to his e-mail he meant Rob Green*) as he was leaving the post office to catch a flight for his new tour of duty. Donn W. stated that Rob G. doesn't have a problem with as long as they keep their vehicles off the road and out of his driveway. Rob G. also requested that the business be treated in a similar fashion as Steve D. Donn W. also stated that he was trying to get in contact with Steve D., he was informed by Steve's girlfriend, Elizabeth Park, that he was back east and would be back on Friday and when he gets back they will leave again for Patagonia for the rest of the month. He stated that in his conversation with Elizabeth P. she informed him that Steve D. didn't have a problem with the business; he felt that since he was made to conform then everybody should be made to conform.

Donn W. felt there was no major impact to the neighborhood by allowing this, he stated the \$1500.00 can be put to use in the community and suggested recreation or streets & roads or however the Mayor designates. Donn W. stated that he was laying himself at the mercy of the P&Z and the Town Council in seeing if they can't allow the business to continue and paying the penalty. He commented that this will not happen again. Donn W. stated there were stipulations about the septic system that he was not aware of, he stated that if ten people using the facilities in the morning and the afternoon and nobody is living in the home. If the septic fails then the operation will shut down until the situation is remedied. Dave G. thanked Donn W. and asked if anybody else wanted to make a comment, the Mayor stated that she suggested that Steve P. come and get any suggestions the P&Z might have. She continued that the property is zoned R-2 and business is being conducted from the residence, which violates town ordinances. She inquired what options were available and if the board had more insight into resolving the issue, she stated that she was looking for any help that we could give him.

Steve P. thanked the board for listening to this issue; he stated that they have made an effort address the concerns of the neighborhood with snow removal. They have contracted with a company to plow snow so the vehicles will be kept out of the roads. The company has a special use permit through Bridger Teton National Forest, and they are not allowed to use the trail head until 10 AM, and they have to be off the trail by 4 PM. He stated that they start the sleds around 9:30 in the morning and are usually back and have things locked up by about 3:30 in the afternoon. He apologized to the board about the misunderstanding and that they thought they were following the rules and could run a business from there, he hoped they could work something out with the town. Dave G. stated that they appreciate the comments, the board is pro business and they understand that the success of the town will be through business. Kennis L commented that he wants to see run a business but he doesn't feel its fair to the residents in the neighborhood to have this thrust upon them when they didn't know it was coming. He knows it doesn't harm anybody, he acknowledged that Rob G. had made a complaint. He also referenced the other residents, they live there for a reason and that they didn't know this type of business would be there. Kennis L. stated that if they needed a commercial lot to continue business through the season he had one they could use. He stated he wanted to see the business succeed; businesses are needed in this community. Kennis L. commented he didn't feel it was fair to the residents to have this business there in the interim while the issue is settled. Tracy M. inquired where the lot he was referencing was located; Kennis L. stated it was across from TJ's.

Dave G. questioned the e-mail and some comments made in it, Dave G. referenced the highlighted comment from Elizabeth K. regarding the penalty and ordinance, Paula S. clarified that our ordinances currently allows for this penalty. Dave G. asked if the penalty clause allows for the business to continue, the Mayor also questioned this. Donn W. stated that by creating a tolerance permit it would, the "tolerance permit" is what Elizabeth K. was concerned about and this is when she suggested that it just be called a penalty. Donn W. then asked her if that provided for the business to continue. He also inquired if Steve D. was allowed continue to operate his business while his issue was being sorted out. Dave G. and Paula S. both stated that yes he was, he was not issued a cease and desist order. Donn W. thought that if a penalty was in place and applied then could the business continue, he appreciated the generous offer that Kennis L. had made but part of the reasoning for this location is that the business can keep the machines locked up and inside a covered area. Donn W. asked the board to understand and to tolerate the situation until the end of the season and fine them appropriately. Dave G. informed him that as a board they have codes to follow and they do not want to set precedence, whether the codes are wrong or right the board has to follow them, they take an oath to do so. He noted that penalty phase is actually retroactive to the violation or the non-compliance.

Dave G. stated that they have the book to follow, he has a few ideas, and asked if it was possible to have a conditional use permit, Paula S. stated a conditional use permit is prohibited. Dave G. continued that the property is currently zoned R-2 and through the Master Plan could be rezoned to a B-1, he asked if it was possible to fast track the process. Paula S. countered with what action the town would commit to in terms of expediting and getting the map amendment process going for this area. Paula S. stated that this needs to be done to prevent this from happening next season. Tracy M. commented that the answer lies with Mr. Pedersen, and what his time frame is going to be to complete the rezoning project. Dave G. inquired that as a board do they have to wait for that, he continued that both Paula S. and himself have worked with Mr. Pedersen through this process and they have given him the vision and the direction that the town should go in. He wanted to expand on what Paula S. was saying in regards to expediting the rezoning of this area, since it will happen anyway. Referring to the business should they be allowed to continue and operate under penalty, Tracy M. stated that the Mayor suggested that the owner file a rezoning application. She continued that the P&Z board looks over a rezoning application as a review only and then it is forwarded onto the council as a recommendation, by law the council is the one that legally rezones the property. The council will approve or deny the application though a public hearing; neighboring property owners are notified of the issue and

hearing date. After approval the property would be rezoned through an ordinance, the ordinance has to have three readings to pass. Tracy M. stated that the council could pass it as an emergency ordinance after it is approved.

Dave G. stated that if they wait for the master plan then it will take longer than on an individual basis, in the mean time the business is non-compliant and are susceptible to fines. He continued that he was trying to work the whole thing through; he suggested that they move the business to avoid a violation and follow through with the rezoning request. Dave G. informed him that by law the codes state that there is a fine of up to \$750.00 a day. Donn W. questioned who would levy this fine; Dave G. stated that in the past they have always made an agreement with the parties involved. Paula S. spoke in regard to the penalty situation; the ordinance reads that for each day that the violation continues shall be deemed a separate offense. Paula S. would like an answer from Elizabeth K. in terms of if they were to accept this draft letter only form with some possible revisions, would the board be running afoul of the towns own regulations. Paula S. stated that she is worried because the use is not permitted at this location and is inconsistent with this zoning district, and she would prefer to have the attorney give some legal input. Paula S. agreed with the comment that Kennis L made earlier about protecting the adjacent property owners, they need to consider the rights of the existing property owners. Paula S. inquired if the neighboring property owners have made comments concerning the business.

Donn W. stated that there is vacant lot across the street that is zoned B-1 but he hasn't been able to contact the property owners. He also mentioned the Sands property, there is a big metal building that Sands Whitewater has purchased, but nobody has been able to contact them yet. Steve P. commented that he has been trying to contact Charlie Sands; he knows him and believes he would allow them to keep the machines there. Mr. Sands travels a lot and this is why he has had trouble contacting him. Kennis L. commented that the business does a nice job, but is concerned with the location at this point. Dave G. commented that the business staying there and violating the town code is not the solution, in the interim they need to file for a rezone on the property. In the mean time he suggested they find another location for the business. Steve P. inquired if they found a place to keep the snow machines, would they be allowed to let people suit up in the house, they keep the suits and helmets in the house and have the two bedrooms set up as changing rooms. They would then walk over to the Sands property to get machines. Steve P. wanted to know if that was an option, or if he would have to move all his gear back to Jackson. Dave G. replied that from the boards stand point the answer would have to be no, because that is not the use of the property. Steve P. stated he was not trying to push for anything he just wants to figure out what he needs to do.

Dave G. recommended that he apply for a rezone immediately. John T. commented that they did not want to lose this season but also wanted to prepare themselves for next season. Tracy M. commented that she would give the rezoning application to Steve P. tonight, so it would be on the next P&Z agenda and then for review for council. Paula S. added that council member Wooden has alluded to the Steve D. situation; Steve D. filed the applications necessary to attempt to address the problems he had pertaining to his property and work he had done. In addition to the fact he didn't have permits, which the board assessed penalties. For purposes of discussion, if Steve P. were to immediately file for the rezoning request making a good faith effort to remedy the situation and keep the snow machines off the property so the worst part of the negative impact is removed from the property. She also suggested a penalty and some other changes to the letter regarding restrictions and allowances. Kennis L. agreed with Paula S., but also suggested going to his neighbors and getting their input. Dave G. commented that Steve D. went through the same situation and Dave G. thinks he came out favorably in his situation, Dave G. commented that there is a risk with situations like this. Paula S. mentioned that she feels a penalty is in order here, they want to prevent people from getting in the habit doing what they want and then coming to the town for forgiveness. Dave G. asked if the town had received any complaints about the business, Tracy M. confirmed there had been two complaints received at this point, one from Rob G. that had been addressed at the last council meeting and one from Steve D. Once Steve D. realized that the property had been earmarked for a zoning change he was a little more receptive to the business. Steve D. has purchased a lot in the subdivision and thinking of purchasing another.

Paula S. inquired if Pat M. had any comments. He feels the same as Dave G. that this town needs business and to be business friendly, he commented that they need to keep businesses coming in. They will benefit the town; he agreed that they are bound by the rules. Granted this property is scheduled to be changed but right now it has not been rezoned. They need to get the process moving, there is no way of knowing how long it will take. Tracy M. added that there is a \$400.00 fee for rezoning; the fee covers everything but the cost of advertising. Dave G. inquired about the penalty; he suggested that they wait until the process is done to access a fee. Paula S. stated that if they felt there was a violation and if they feel they need to enforce the ability to levy fines and penalties and cause him to quit operating they needed to set that process in motion. If this is not the case they need to go a different route. Dave G. stated that if Steve P. were not present, the process would be to send a letter informing him of the violation. Kennis L. stated that it still doesn't remedy the violation, Dave G. went through the process if they were to send letters informing of the violation. Paula S. stated that it feels incomplete to her; Kennis L. agreed that the issue should not be pushed off again. Tracy M. suggested they table the issue until someone can speak with Elizabeth K. and get an idea from the town's legal council what needs to be done. This will also give the owner time to file the rezone application, because they have all agreed that the master plan rezoning will be to far in advance to benefit this issue. Dave G. stated that a letter needs to be sent confirming that the business is in non-compliance, this is the usual process. Tracy M. stated that the business license was issued under the address for the Sands property.

Paula S. motioned that to keep the issue on track she would like it on the record what everybody was obligating themselves to; first they request and require the staff to draft a notice of violation. This will be sent to Steve P. and it puts him on notice that we recognize there is a use violation; this item should also be tabled until the next meeting.

They will follow it up at the next meeting, by which time Paula S. will have spoken with the attorney regarding any issues and any jeopardy it puts P&Z in. With regard to section 108 of enforcement, are they putting themselves in jeopardy by allowing the business to continue knowing that he is in violation. In the mean time Steve P. files the rezoning application, as part of the application process the town will then notify the neighboring lot owners of the rezoning and that if they have concerns or questions they need to address them to the town. Dave G. asked for a second, Pat M. seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent.

- Review Draft Ordinances deleting references to the International Existing Building Codes from the IBC and the IRC. We will need to start advertising by January 22nd, so it can go to the Town Council by February 6th. Tracy M. asked if they needed any changes to please contact her ASAP.
- Discuss and make changes to the fee schedule, Brenda Bennett would like approval to raise the building fees. Paula S. asked if there was a proposal, Dave G. commented that they need to at least cover their costs. Tracy M. stated that Brenda B. is trying to make sure all fees are covered, rental of the civic center, as well as other fees. Dave G. stated he would like to see a summary so they can review it and then make the appropriate recommendations to the council. Tracy M. stated that the Mayor is working on the resolution that defines the department appointments, she suggested if they have a council member in mind to suggest it now. The intent is to have the council member becoming more active and responsible for the budgets of each department. Tracy M. stated that the resolution will be ready by the second meeting in February. Dave G. asked if they wanted to make a recommendation tonight, or would they like to think about it. The board decided they wanted to wait until the next meeting to make the recommendation.

4- UNFINISHED/ONGOING BUSINESS:

- **WAGNER, Rob - Building Inspector** - Continue the building height discussion. Rob W. informed them that the last time they discussed the mandatory sprinkler systems, and/or reducing the height of the building for firefighter access to vent roof. He has spoke with the State and they will do a plan review and inspections, they were not aware of any area in the State unless there is home rule. Rob W. stated that he thinks it should be referenced in the design, if they build to 35' and the eve height is no greater than being accessible than no sprinklers required. Unless it is required by the State because of the size of the building. If they decide to use the maximum allowed then sprinklers should be required. Rob W. continued that he would like to here any thoughts the board might have; Dave G. stated that they have discussed this item for sometime. He confirmed that the fire department limitation currently was 35'; Rob W. stated it could be even less due to the OSHA requirements. Dave G. confirmed that the current building height was 45'; Rob W. stated that is the ridge height.

Pat M. confirmed the height the fire department could access; Rob W. stated it is a design issue. John T. questioned the roof pitch, Rob W. stated that they have ladders that have hooks to put over the eve then they can walk up it. Dave G. asked if he had certain recommendations, Rob W. doesn't have this information at the moment. Dave G. stated that first and foremost is the safety of our first responders and the safety of the residents in the dwelling. Dave G. stated that they needed to figure out their options so they can go to the council with a proposal. There was further discussion among the board; they inquired what they needed to do to resolve this. Rob W. stated he would some more research; check into what other towns require. Tracy M. commented that she has done inquiry e-mails regarding similar issues; she suggested this as an option for gathering information. Paula S. stated that they will want to request a model ordinance for height restrictions, fire suppression systems for commercial and residential units, since condominiums are now being addressed.

- **BECKSTEAD, Diane - F-05-06 - 170 Trail Drive - Non compliance issue - Ms. Beckstead is applying for a fence permit. She is unable to attend tonight's meeting. Tabled.**

5 - P&Z MINUTES: October 24th, 2006, Paula S. motioned to approve the minutes. Kennis L. seconded. VOTE: 4- Yes; 0- No; 1- Abstain; 0- Absent.

December 12th, 2006, Pat M. motioned to approve the minutes, Kennis L. seconded. VOTE: 3- Yes; 0- No; 2- Abstain; 0- Absent.

6 - COUNCIL MINUTES DISTRIBUTED: December 19th, 2006 and December 21st, 2006.

P&Z ATTENDING COUNCIL MEETINGS:

1) February 6th, 2007 *Kennis Lutz*

2) February 20th, 2007 *Paula Stevens*

7 - ADJOURN MEETING - Kennis L. motioned to adjourn the meeting at 9:12 PM, John T. seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent.

AFTER MEETING REVIEWS/WORKSHOPS:

- Discuss and prepare questions or concerns for Jim Pedersen, he will be present at the January 23rd meeting. Main discussion will be in regards to Zoning, please address all past problems, any changes or additions to zoning. (*FYI: Recommended Land Use Pattern Option 3 on page 8-12 of the Master Plan, this was the approved zoning use.*)

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

- **Town Council Minutes:** December 19th, 2006 and December 21st, 2006.
- **P&Z Minutes:** December 12th, 2006.
- Profit and Loss Budget vs. Actual from Brenda Bennett.
- Letter and pictures from Rob Green regarding parking in roadway at 266 Sawmill Road.
- Legal/Public Notice RE: New Wastewater Ordinance.
- Lincoln County Commissioners Hearing Notice RE: Three Rivers Construction application for a minor subdivision.
- Draft Ordinances deleting the IEBC from the IBC & the IRC.

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

Dave Gustafson, P&Z Chairman

Date

Attest:

Kimberlee Jansen, Secretary

Date