



**MINUTES OF THE REGULAR (and VIRTUAL) MEETING OF THE
PALISADE BOARD OF TRUSTEES
March 9, 2021**

The regular meeting of the Board of Trustees for the Town of Palisade was called to order at 6:00 PM by Mayor Mikolai with Trustees Somerville, Turner, Carlson, and Maxwell present in person. Trustee L'Hommedieu and Mayor Pro-Tem Chase appeared via Zoom. Also present in person were Town Manager Janet Hawkinson, Community Development Director Brian Rusche, Police Chief Deb Funston, and Parks, Recreation and Events Director Troy Ward. Town Clerk Keli Frasier appeared via Zoom.

AGENDA ADOPTION

Motion #1 by Mayor Pro-Tem Chase, seconded by Trustee L'Hommedieu, to approve the agenda as amended to remove items *XI Supplemental Budget Appropriation for Bower Sewer Project* and item *XII Supplemental Budget Appropriation for Waste Management* to allow published public notification.

A voice vote was requested.
Motion carried unanimously.

TOWN MANAGER REPORT

Town Manager Janet Hawkinson announced that an official decision regarding whether or not to hold the Palisade Bluegrass and Roots Festival from the Board of Trustees is necessary to move forward in 2021. She stated that the festival would be required to keep capacity at or under 50%, that it is estimated that the Town would lose approximately \$100,000.00. Staff is recommending canceling the 2021 festival. Board members expressed concern over canceling the event and strongly supported having a smaller event for locals to help boost community morale. Town Manager Hawkinson stated the Palisade Chambers of Commerce is still planning on having the 2021 Peach Festival in August and the Town is working with Mesa County to host a grand opening for the Palisade Plunge in July. ***The consensus of the Board is to cancel the 2021 Palisade Bluegrass and move forward with smaller-scale events geared toward local residents.***

Town Manager Hawkinson also informed the Board that Police Chief Deb Funston found a grant for one million dollars from Lowes that staff would like to apply for to upgrade the Veteran's Memorial Community Center. ***The consensus of the Board is to move forward with applying for the grant.***

CONSENT AGENDA

The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board members may ask that an item be removed from the Consent Agenda for individual consideration.

- **Expenditures**
Approval of Bills from Various Town Funds – February 19, 2021 – March 4, 2021
- **Minutes**
Minutes from the February 24, 2021 Board Meeting

Motion #2 by Trustee Somerville, seconded by Mayor Pro-Tem Chase, to approve the Consent Agenda as presented.

A roll call vote was requested.

Yes: Mayor Mikolai, Trustee Turner, Trustee Somerville, Mayor Pro-Tem Chase, Trustee Carlson, Trustee L'Hommedieu, Trustee Maxwell

No:

Absent:

Motion carried.

PUBLIC COMMENT

None was offered.

PUBLIC HEARING I

PRO 2020-34 – Subway CUP PRO 2020-33 – Wine Valley Minor Subdivision

Mayor Mikolai opened the public hearing at 6:14 PM.

Community Development Director Brian Rusche reviewed his staff report citing findings of fact and staff's recommendation for conditions of approval for both projects PRO 2020-33, *Wine Valley Subdivision, a Subdivision of The Property Located at 450 Wine Valley Road, Parcel # 2937-043-42-002*, and PRO 2020-34, *a Request for a Conditional Use Permit (Cup) for a Drive-Through Subway Restaurant Located at 450 Wine Valley Road, Parcel # 2937-043-42-002*.

Minor subdivisions shall be approved only when the following conditions are found to be met:

1. Consistency with the adopted plans and policies of the Town;
The proposed lots are properly zoned HR (Hospitality Retail), and the lot sizes exceed the minimum required for this zone.
2. The plat complies with the standards of Article 9, Subdivision Regulations, and any other applicable requirements of this LDC;
The plat complies with these requirements.
3. The plat indicates that all subject lots will have frontage on existing approved streets;
Both lots will front on Wine Valley Road.
4. New or residual parcels conform to the requirements of this LDC and other applicable regulations;
The proposed lots are properly zoned HR (Hospitality Retail) and the lot sizes exceed the minimum required for this zone.
5. No new streets are required or are likely to be required for access to interior property;
Both lots will front on Wine Valley Road.
6. No drainage or utility easements will be required to serve interior property;
All necessary easements to service the irrigation ditch have been created with the original subdivision.

7. No extension of public sewerage or water lines will be required;
Utilities will be extended as they were not constructed with the original subdivision – this will be accomplished in conjunction with the development of Lot 1 and enforced via an SIA.

8. The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property; and
The proposed subdivision will not adversely affect future development of the remainder of the parcel.

9. No waivers from Article 9, Subdivision Regulations, have been requested.
No waivers have been requested.

A recommendation of approval of the proposed Wine Valley Subdivision, with the approval criteria as stated above, and with the following condition:

1. A Subdivision Improvements Agreement be recorded in conjunction with the Wine Valley Subdivision plat related to the extension of public infrastructure in Wine Valley Road. Said infrastructure must be completed prior to issuance of a Certificate of Occupancy (CO) for the restaurant (approved under the CUP).

Section 4.07.E. Conditional Use Permit Findings of Fact:

In order to approve a conditional use permit, the Board of Trustees must make certain findings about the request:

1. That the application will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved.

The proposed drive-through restaurant would be located adjacent to an existing auto-oriented use and accessible via a public street, built to current development standards. The proposed drive-through provides sufficient queuing for automobiles at the order box (6 vehicles) and the pick-up window (4 vehicles), as required by Section 10.01.F.1 – Off-street stacking requirements. Sufficient parking is provided - based on the square footage of the restaurant (using Table 10.1), a minimum of 20 spaces is required (1 per 100 sq. ft. of floor area) and 23 spaces are provided.

In granting approval of a conditional use permit, the Board of Trustees may impose reasonable conditions which serve to assure that the conditional use permit does not endanger the public health or safety. Staff is recommending two conditions relative to accessing the property: 1) That a shared access be created between the proposed restaurant site and the remaining outparcel (as required by Section 10.07.G.1 – Nonresidential driveway access to adjacent development) and 2) That a pedestrian walk be constructed from the public sidewalk on the north side of Wine Valley Road to the primary entrance of the restaurant (as was required of the Golden Gate convenience store).

2. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and other applicable regulations.

The application conforms to practices of sound land use planning. The application complies with the intent of the Hospitality Retail zoning district by providing retail development in the vicinity of Exit 42 in an environment compatible with the character of existing land uses.

The design of the proposed restaurant is unlike a typical "fast-food" establishment. The low-rise building utilizes earth-tone colors, including brick accents, to ensure that it blends into the high-desert landscape. An outdoor patio area (shown on the elevations) is provided (and could be expanded) in front of the restaurant, allowing people to enjoy the outdoors during the peak tourist season in Palisade. Xeric landscaping is also shown along the street frontage.

3. That the application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

The property is currently a vacant commercial lot and has been vacant for some time. The development of the Golden Gate convenience store has undoubtedly increased the value of the remaining property that was platted at this location – due to the construction of public infrastructure. The extension of this infrastructure and the establishment of a complimentary use to the gas station will only increase the value of the remaining parcel. These public improvements will also allow better access to agricultural properties to the east.

4. That the application will not adversely affect the adopted plans and policies of the Town or violate the character of existing standards for development of the adjacent properties. *Prior to annexation of the property in 2017, Mesa County had designated this area around Exit 42 as commercial. The adjacent Golden Gate convenience store make the proposed restaurant and drive through a complimentary use, consistent with the standard of development found at major interstate exits. In addition, the orientation of the drive-through adjacent to the existing parking lot, along with the creation of a remnant parcel, mean little to no impact on agricultural uses further east.*

A recommendation of approval of the proposed conditional use permit (CUP) for a drive-through Subway restaurant, with the findings of fact as stated above, and with the following conditions:

1. A shared access be created between the proposed restaurant site and the remaining undeveloped lot;
2. A pedestrian walk be constructed from the public sidewalk on Wine Valley Road to the entrance of the restaurant;
3. A Subdivision Improvements Agreement be recorded in conjunction with the Wine Valley Subdivision plat related to the extension of public infrastructure in Wine Valley Road. Said infrastructure must be completed prior to issuance of a Certificate of Occupancy (CO) for the restaurant;
4. A Site Plan shall be approved by the Community Development Director prior to issuance of a Planning Clearance/Building Permit for the proposed restaurant;
5. The Community Development Director will work with the Irrigation District and the Developer on an amicable resolution of the irrigation easement. [condition added by the Planning Commission]

While the staff presentation was given for both items simultaneously, it was explained that two motions would be required (one for each project). Trustee Somerville called a point of order and requested that each item be considered separately in its entirety for the remainder of the Public Hearing.

Mark Austin with Austin Civil Group spoke to the Board on behalf of Jim Cagle, owner of the proposed project location and Soul Deep Development. Mr. Austin remarked that staff made a detailed presentation of the proposed projects, and he'd be happy to answer any questions they may have.

Mayor Mikolai opened the hearing to public comment and reminded the audience that comments should be kept to issues regarding the subdivision only at this time.

Will McGough 592 Milleman Street and Ron West 405 W 1st Street raised concerns regarding the brand and reputation that Palisade currently has with visitors as a small rural community without major developments at its entrance from the interstate. Worry about the intersection quickly turning into a Clifton-like area to the detriment and abandonment of downtown was also voiced. Mr. West asked the applicant if the CUP for the drive-through was denied, would the developer continue to move forward with building the Subway Restaurant?

Mayor Mikolai opened the hearing to Board comment and began by asking staff why this item was coming before the Board when Community Development Director 'Rusche's report stated that this item could be approved at the staff level? Community Development Director (CDD) Rusche stated that while the Code allows him as the CDD to approve this item, it also requires a Public Hearing before the Board of Trustees.

Trustee 'L'Hommidieu asked if the owner of the parcel being discussed was the same person who owns the Golden Gate Gas Station; she also mentioned that she would like to see more lodging (to keep visitors in Town vs. them going to Horizon Drive to sleep) in the three-plus acres that will remain undeveloped if this project is approved.

Trustee Somerville stated that his opposition to the project stems from criteria #8 *""The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property""*. He clarified that the Town does not have an updated Comprehensive Plan, the land is newly-annexed, the property has never been discussed, and he feels it was zoned by default. With that, he went on to say that Palisade has a limited amount of development space, 'there's currently no strategy going forward with it, and the Board does not get a second chance for development with it. He concluded that he is not comfortable with the direction it is going. Trustee Somerville defined his objection to the subdivision stating that *""it limits the potential the Town has to develop a strategic plan""*.

In addition, he added that the subdivision is taking away the value of other properties; it reduces the amount of space and reduces the ability to do something else that may be more strategic going forward.

Trustee Carlson observed that the letter of intent shows the developer as Soul Deep Development, and when he researched the company, he 'couldn't find any information on them or locate them through the Colorado Secretary of State. The applicant previously stated that the 'company's owner is Jim Cagle and Trustee Carlson asked for clarification if the corporation was in-state, out-of-state, and who they were in general

Mayor Pro-Tem Chase clarified that a restaurant does not require a CUP in an HR zone; 'it's because of the drive-through that the Board is looking at this in terms of a CUP. She also referenced other communities that have a very specific plan for what developments can and cannot go into their Town through their comp plan, zoning, etc.

She feels that there is an opportunity to look at the Comprehensive Plan, not to dictate each acre of Palisade, but to create incentives and vision for the community that the Board can use to try to influence as much as possible can. She stated that the proposed subdivision is appropriate as currently zoned.

Mayor Mikolai voiced his support of the minor subdivision because the application has fulfilled all of the requirements and has done what they need to do to seek approval. He understands that we do not have a strategy for the area but feels we should not shut down all development for the next year or two while the Board develops a Comprehensive Plan. He also stressed that the current Palisade Land Development Code allows for the requested use in the designated zone.

In the applicant's closing remarks, Mr. Austin stated that the intent is to construct a drive-through restaurant in the proposed subdivided location. He clarified that Soul Deep Development is owned and operated by Mr. Cagle, a Grand Junction resident who does not own Golden Gate Gas Station.

CDD Rusche stated that all public improvements, including streets and sidewalks, would be installed and paid for by the applicant.

Motion #3 by Mayor Pro-Tem Chase, seconded by Trustee L'Hommidieu to approve PRO 2020-33 – Wine Valley Minor Subdivision as applied for.

A roll call vote was requested.

Yes: Trustee Turner, Mayor Pro-Tem Chase, Trustee L'Hommedieu, Mayor Mikolai

No: Trustee Somerville, Trustee Carlson, Trustee Maxwell

Absent:

Motion carried.

Mayor Mikolai opened the hearing to public comment and reminded the audience that comments should be kept to issues regarding the conditional use permit (CUP) application at this time.

Gail Evans 126 Majestic Court, Ron West 405 W 1st Street, Will McGough 592 Milleman Street, and Aaron Tofsrud 550 W 1st Street all showed misgivings about the CUP project – questioning the signage and lighting the developer will propose, if they will request a sign variance similar to Golden Gate Gas Station, and asking for clarification on the question raised under the subdivision regarding whether or not the restaurant will be built regardless of the CUP being approved. Concerns were also voiced about a drive-through at the exit of the interstate. It will not encourage visitors to go downtown to other local businesses and lose Palisade's character by allowing a chain restaurant in Town.

Mayor Mikolai opened the hearing to Board comment.

Ellen Turner questioned the signage – specifically stating that the rendering provided to the Board looks nice, but asked if the applicant intended to put up a sign on a pole that would capture traffic going east and west on the interstate? Mayor Mikolai responded that any sign variances would have to come back to the Board for approval.

She went on to note that there are many times when she visits downtown and businesses are closed, so she is unsure to what degree a Subway restaurant would be competing with existing businesses.

Trustee Somerville asked for clarification on the Golden Gate lighting/sign agreement and if the lighting restrictions were in the Code or if it was a term of the agreement. His concern is 24-hour lighting from a fast-food sign would be a detriment in the form of light pollution in Palisade. The response was that it was agreed upon per the Board's request and was not in the Code.

Trustee Maxwell observed that the letter of intent mentions a four-inch water main (that services a home to the east of the property) that will be abonded, and she would like clarification if that will affect the homeowner, as well as if the proposed changes to the eight-inch sewer main would affect the same homeowner. She went on to inquire if the developer planned on tapping into the existing irrigation line or if they would consider zero scaping to reduce their impact on the irrigation that local farmers use.

Trustee Maxwell also noted that it would make more sense if the exit of the drive-through could be direct to Wine Valley Road instead of cutting across the parking lot.

Mayor Mikolai referenced the Planning Commission's recommendation to make a shared access road between the proposed restaurant and the remaining undeveloped plot. He hypothesized that the impact to the traffic going in and out of that shared access and should not be a condition of the CUP or use Trustee Maxwell's suggestion of the exit of the drive-through going directly to Wine Valley Road.

Mayor Pro-Tem Chase asked to draw the Board's attention to **Finding of Fact number 4** **"That the application will not adversely affect the adopted plans and policies of the Town or violate the character of existing standards for development of the adjacent properties"** *and given that the CUP is for a drive-through it does violate the character of existing standards for development of adjacent properties. The adjacent properties don't have drive-throughs – they are agriculture, a gas station (that did a very good job to create a nice ambiance in terms of people walking in), and the Peach Shack. A drive-through is not consistent with the character in the area, and it does violate the character of existing standards for development of the adjacent properties.* Mayor Pro-Tem Chase went on to state that she will be voting against the proposed CUP. She went on to clarify that she was not against the Subway restaurant; rather, she's against the drive-through.

Trustee L'Hommidieu feels it should be up to the developer to decide where the entrance and exit should be. She also reminded the Board that a drive-through has already been approved downtown and feels that the Board cannot not support this application for a drive-through.

She mentioned that most existing restaurants in Palisade serve alcohol, and it would be nice to have an option (other than Diorio's) to take a family to a place that doesn't serve it, and she supports the Subway having a drive-through.

Mayor Mikolai mentioned that people could drive up to and through the existing gas station, and therefore a drive-through restaurant does not fall out of character with businesses within the area. Mayor Mikolai voiced his support of approval of the application for a drive-through.

Trustee Maxwell pointed to **Finding of Fact number 3 "That the application will not substantially injure the value of adjoining or abutting property and will not be detrimental**

to the use or development of adjacent properties or other neighborhood uses" and stated *that the neighborhood across Wine Valley Road and the canal would be devalued by continuing to add retail developments to this area.* She also agreed with Mayor Pro-Tem Chase's comment about **Finding of Fact number 4** *and that a drive-through violates the existing character of other local businesses in Palisade and the Town's goal of getting visitors to come here.*

Mr. Austin answered the Board's and citizen's questions in his closing remarks. He stated that it is the applicant's intent to stay within the Code regarding signs and not ask for a variance. He also admitted that he is unsure if the applicant will move forward with building the restaurant if the CUP is denied, that at this time, the intent is to build a drive-through Subway restaurant. The location of this proposed project is next to a gas station, next to the interstate with a canal between the property and any residents. The plans for water and sewer lines will not negatively affect residents and will bring a fire hydrant closer to homes that would benefit from it if ever needed. Xeric landscaping is in line with their plans, and they will not deviate from the drainage and landscaping regulations outlined in the Palisade Land Development Code. Regarding the possibility of the exit of the drive-through going out to Wine Valley Road, Mr. Austin explained that most municipalities and traffic designers prefer one entry/exit point because it reduces the chances of an accident and increases safety. He concluded that a Subway restaurant would pull travelers from the interstate and possibly motivate them to check out Town.

Motion #4 by Trustee L'Hommidieu, seconded by Trustee Turner to approve PRO 2020-34 – Subway CUP as applied for.

A roll call vote was requested.

Yes: Trustee L'Hommedieu, Mayor Mikolai, Trustee Turner

No: Trustee Somerville, Mayor Pro-Tem Chase, Trustee Carlson, Trustee Maxwell

Absent:

Motion failed.

Mayor Mikolai closed the public hearing at 7:40 PM.

OPEN DISCUSSION

Trustee Turner asked to begin having work sessions or training in off weeks to better understand the processes and 'do's and don'ts of the Board. She also voiced her desire to have the Board and staff meet in person for meetings whenever physically possible. ***The consensus of the Board agreed to coming back to in-person meetings, health conditions permitting, and to begin having training/work sessions.***

Trustee Carlson announced that he and Parks, Recreation and Events Director Troy Ward pulled a very large stump from Riverbend Park and donated it to a children's art center in Grand Junction. He stated that the art center wanted to express their appreciation to the Town and that they will be using it for a future art project.

Trustee Maxwell echoed Trustee Turner's wish to go back to in-person meetings. She also requested to start scheduling more *Coffee with the Board* events.

Mayor Pro-Tem Chase followed up on a conversation from the last Board meeting regarding the Palisade Plunge parking lot and explained that she recently learned that paving the lot would cost

the Town approximately \$200,000.00 and that the pavement would create excessive heat in the summer, cause stormwater issues as well as, per a previous agreement for the sale of the lot, require the previous owner Sean O'Brien to share the cost. She stressed that the issue of parking should not be removed from the Boards attention but that they will need to look at alternate options for downtown parking.

Mayor Mikolai clarified that training and workshops have been difficult due to COVID-19, but with regulations easing, more should be easier to accommodate and plan.

COMMITTEE REPORTS

Board members briefly explained the various meetings they had recently attended.

ADJOURNMENT

Motion #5 by Trustee Somerville, seconded by Trustee Turner to adjourn the meeting at 7:56 PM.

A voice vote was requested.
Motion carried unanimously.

X

Greg Mikolai
Mayor

X

Keli L. Frasier
Town Clerk

