

# Pagosa Daily Post

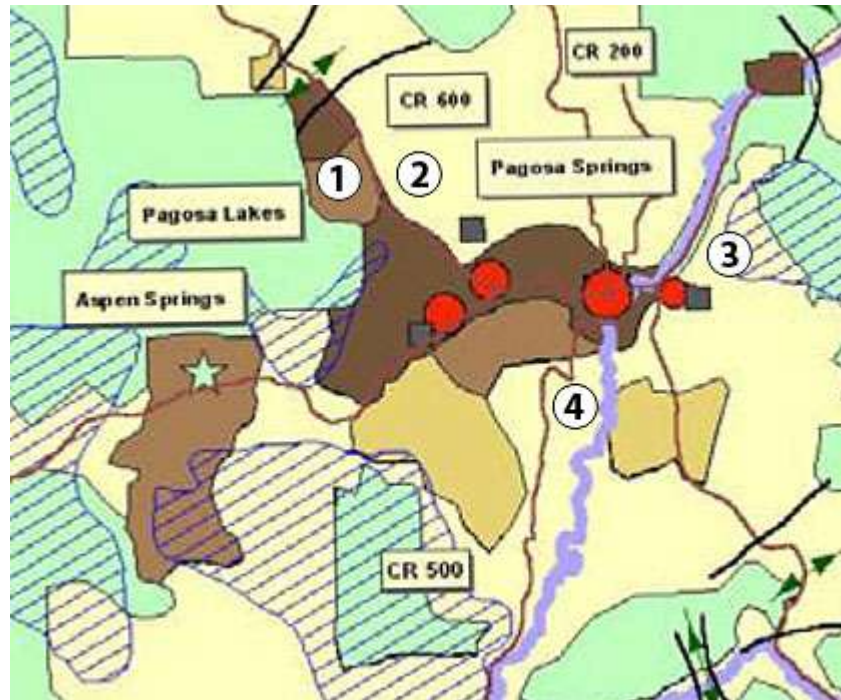
## Community Plan RIP, Part One

Glenn Walsh | 11/17/08

The Archuleta County Planning Commission approved substantial changes to the County's Future Land Use Map early Thursday morning, after five hours of public debate and discussion.

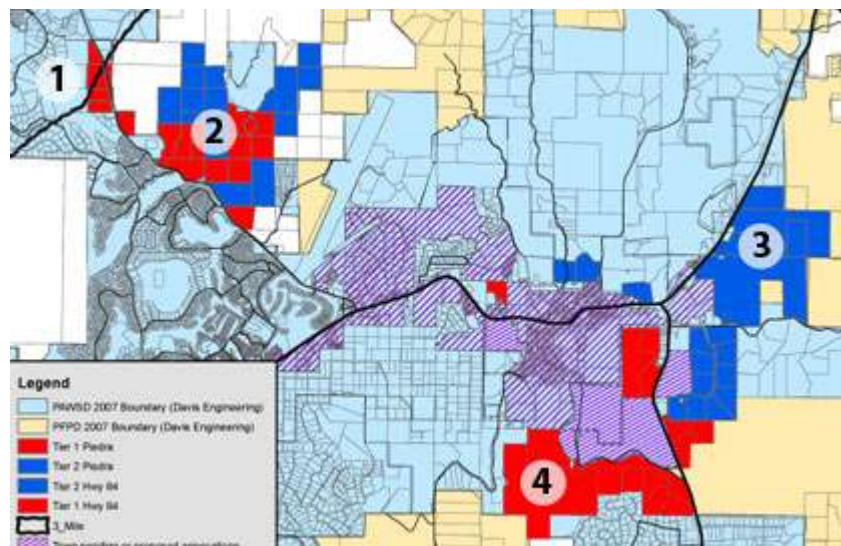
The future Future Land Use Map will open thousands of acres of agriculturally zoned and tax-exempted (but minimally worked) land relatively close to Town to higher density residential and commercial development. Many of the parcels chosen for higher density development meet three criteria established by the Planning Commission — availability of central water and sewer, proximity to dense development, and easy access to a major roadway.

Many more parcels, and thousands of acres, within a three-mile zone of the Town of Pagosa Springs, along Four Mile and Snowball Roads will likely meet these criteria — should growth return to Archuleta County. Effectively, agricultural zoning status within a three mile drive of Town has been uprooted. *Continued...*

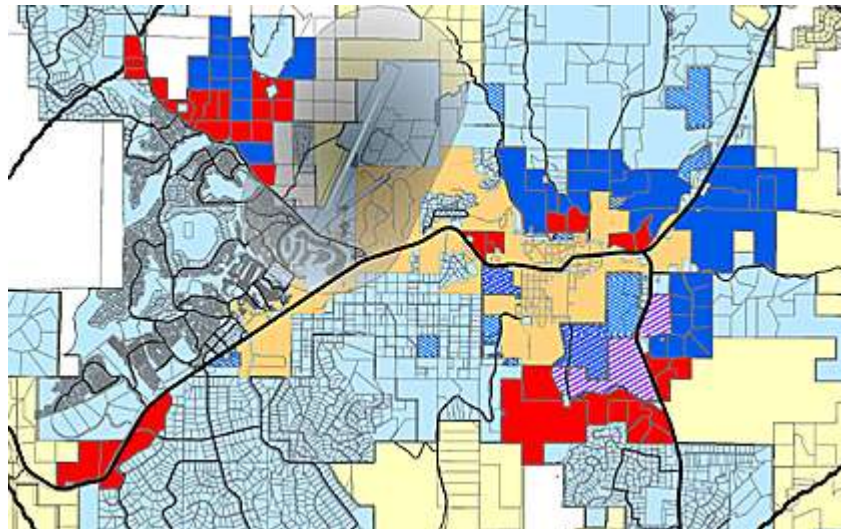


The 'former' Future Land Use Map confined higher density residential growth to the 'Pagosa Hub', designating area (1) as one dwelling per three acres and areas (2), (3) and (4) for very low density — one dwelling per thirty-five acres.

Thousands of acres close to no major roads, water lines, sewer service or existing development have been re-defined, presumably for a variety of reasons — because legally astute developers are threatening lawsuits, because the Town is likely to offer annexation, or because recently expanded or planned reservoirs are providing taxpayer-created waterfronts for recreational developments which might jumpstart some investment in the County. *Continued...*

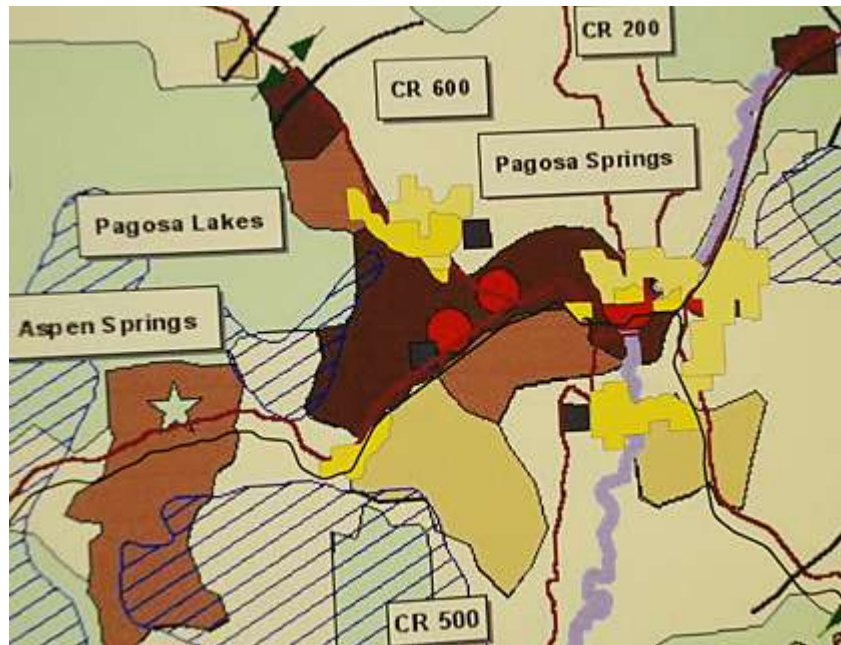


This version of the USA development map produced two weeks ago redesignated the low and very low density areas (1)-(4) in the 2001 Future Land Use Map for new planned unit developments.



The most recent version of the map adds hundreds of acres north of US 160 and along Four Mile and Snowball roads, with no apparent curb to the application of "criteria" within the Town's three-mile annexation boundary.

These new development parcels have been rendered into yellow blobs and inserted into the palette of brown blobs which comprise the former-Future map. The yellow blobs are effectively an overlay map which offer developers the opportunity to enter into development agreements with the Planning Commission which at a minimum will require a fifty percent open space dedication. *Continued...*



The new development areas have been rendered into yellow blobs on the revised Future Land Use Map. How much density will be permitted? How much can developers afford if a full range of impact fees are assessed and CDOT mandates upgrades to US 160?

It is the contention of Development Director Rick Bellis that existing lots in Pagosa Lakes are undesirable or unbuildable and the County is therefore imposing an illegal "de facto moratorium" on new large-scale residential projects by adhering to a zoning map which restricts almost all larger parcels to low-density development.

Critics contend that the County's Community Plan, zoning map and land use codes were enacted through a legal public process, and that Bellis is overstating the legal liability of the County.

In fairness to Bellis, before the adoption of Countywide zoning, many of the most valuable large tracts of land were purchased by prominent lawyers and out-of-state corporations with no more connection to western ranching heritage than a possible fondness for 'Bonanza' reruns. It is unlikely these investors would accept limits of one dwelling per thirty-five acres, without making an expensive legal challenge.

Supporters of the new map note that, apart from the legal validity of recent County regulations, almost every successful residential and commercial project in Pagosa Springs has involved zoning changes and increased densities, accommodations which were commonplace before the adoption of the zoning map in 2006.

Bellis opened the discussion of the possible map amendment with a wry observation — "The Community Plan does not really outline how it is to be amended."

While the 2001 Community Plan emphasizes large themes which supporters contend still represent basic community values — preservation of open space, a small town atmosphere, "agricultural ambience" (my favorite), and quality of life — the document is not overloaded with definitions.

The first hour of Wednesday's meeting was spent trying to decide whether a propane supply station was a legitimate aspect of a "town center," one of the key concepts in the 2001 Plan which was left undefined. A propane supply station was proposed for the Chromo area — and Chromo is a town center in the Community

Plan.

How large is a town center? How large can it be if a reliable source of propane cannot be placed on the outskirts of that town center? It cannot be placed in the center of that town.

In the end the propane station was turned down, because security lights must be turned up. (Whether the new propane station would flood the night skies with as much light as the County's own Road and Bridge facility on Highway 84, the location of the Planning Department, is an open question.)

When the discussion of the Urban Services Area Map finally arrived, Commissioner Lesli Allison rescued the discussion by focusing not on how, but on "why" she felt the old map needed to be amended.

"From my perspective, as a new commissioner, I was faced with projects which I felt I did not have the tools to evaluate. Stuck in a situation where I had to refuse any kind of rezone or development or approve a rezone which was not revocable in case that development sold off to another person."

According to Allison and Bellis, the present code requires the Commission to change zoning — often to the highest density — with no guarantee that a development agreement will be adhered to. If the developer leaves, the high density zoning stays.

Allison noted that if no opportunities for new projects are provided by the Planning Commission, the BoCC will be pressured to change zoning without any open space dedication, or the Town will annex many of these new development parcels and grant the developer more density.

Allison gave assurances to a roomful of concerned residents about her approach to new development requests — "They must be appropriate for the neighborhood before we could even entertain the rezoning." She emphasized that the fifty percent open space was just the opening of negotiations — "After that, now we are going to talk about how this project will or will not fit into this neighborhood."

Allison distinguished between intensifying overall development of the County and increasing density on select projects — "Not to intensify growth but consolidate and shape the growth that will come."

Allison then echoed Bellis' claim that new projects will have to demonstrate they are viable and commit to a timeline. "The economic viability of any development is the first order of business for any development that comes in the door. If it is not going to be successful we are not going to approve it. It has to have market studies and financial viability."

Commissioner Ron Chacey added that the new development parcels would not receive density giveaways — "There are major impacts for roads, parks and trails, affordable housing. There is a long list. And all of those issues would be addressed during that process." Bellis has noted at previous sessions, that CDOT in the future will assess developments for impacts to the state highway as well.

How likely are projects to meet these tests and demands? On whose authority will the Commission and staff make these demands?

Will the County Commissioners, in a declining market, press potential investors to pay for the full impact of development (the County has effectively no impact fees), set aside fifty percent of developable land, and prove their projects are marketworthy?

If they do, can the County compete with the Town for jurisdiction over these parcels? The Town is presently offering annexations with 25-year guarantees and shows no readiness to press developers for financial and marketing bona fides. Town-approved development projects are presently being sold by local realtors. Pradera Pointe anyone?

Last week, the Town entered into a development agreement with a local developer which guaranteed for twenty years the right to build two million square feet of commercial space (about 17 City Market Plazas). The only requirement: build one building that requires a building permit, within seven years. Conceivably, that could be the smallest building that requires a building permit: 128 square feet.

And the Town did this for plausible reasons: the owner needed the guarantees in order to sell the project to a developer who might be able to develop the property should the national and local markets rebound.

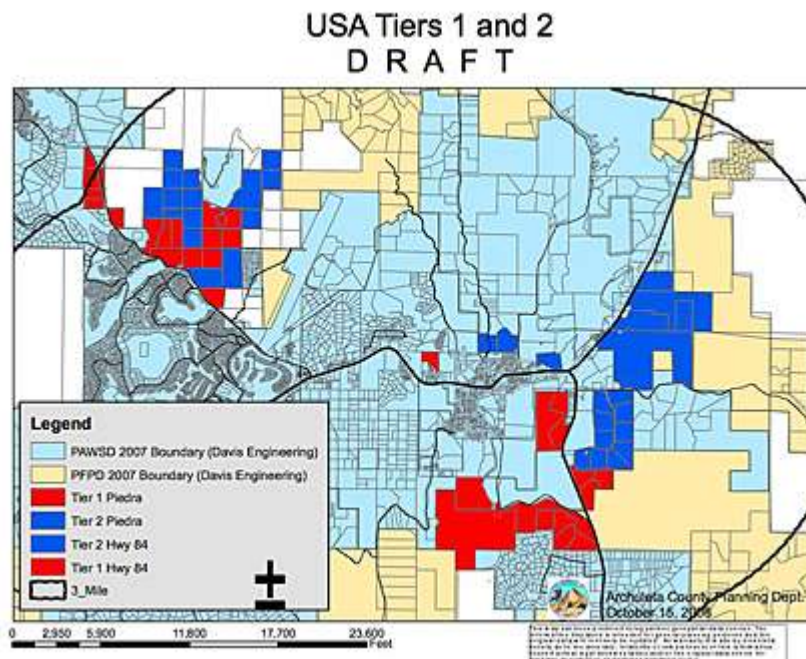
In a market like this, is the Planning Department's tough stand just a pose?

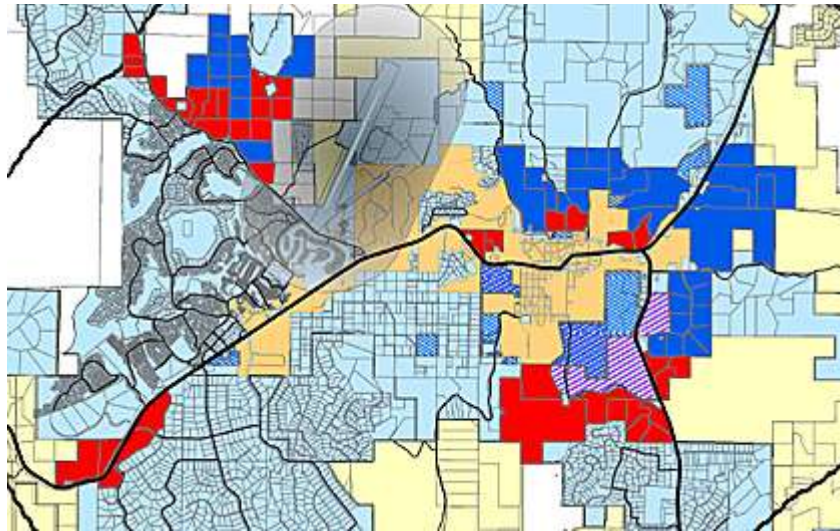
## Community Plan RIP, Part Two

Glenn Walsh | 11/18/08

For a second week, the audience at the Courthouse spilled into the hallways. Again, there was no seat other than the hot seat left for Development Director Rick Bellis, who can, clearly, take the heat.

And, again, for the fourth consecutive session, there was a new map. *Continued...*





Many new parcels along Snowball and Four Mile roads have been added to the proposed development map and many parcels have been upgraded to first-tier development parcels (colored red) in response to parcel-specific comments submitted to the Planning Department, but no parcels have been removed after four sessions of public input. No specific arguments have been permitted against the inclusion of any individual parcel.

The latest version of the development map adds hundreds of acres of agriculturally zoned properties along Snowball and Four Mile Roads and a new stretch of immediately developable property along US 160 west of Town.

The map was presented as the year-long objective application of a set of precise criteria to every parcel in the County. Yet, in one month nearly twenty large parcels — many agriculturally zoned (and minimally taxed) — have been added to the development map. Snowball and Four Mile roads have been opened for more dense development. These areas close to Town are logical candidates for development, and Town annexation. No residents from these areas were present to protest their inclusion.

Yet no property has been removed from the development map due to re-examination. One property has been removed at the request of its owner, which is a story of personal integrity I'll touch on in the next installment.

The process thus far seems curiously uneven. The owner or representative of a parcel zoned and lightly taxed for agriculture can make specific arguments for inclusion, the planning staff listens, and is apparently very responsive to parcel specific argument. The properties — many of which clearly meet the stated criteria — are added to the map, and one owner or representative is subtracted from the audience for the next meeting.

But if a room full of residents wish to protest the inclusion of a parcel based on the misapplication of the same criteria, they are warned against making any arguments specific to that parcel.

For a process which the Planning Commission presents as a piece-by-piece community plan, this approach seems surprisingly circumscribed. The USA map was described by Commissioner Judith Reilly as a “moving target.” It seems to move in only one direction.

Local attorney and Piedra Road resident William Darling again presented a very detailed critique of the latest version of the new development map — “We have never seen that map until one hour ago. ... One map came

out on Monday and another came out tonight.”

Darling noted that prompt legal notices of meetings and map updates had been promised, and complained, “For some reason it is not happening.”

Calmly, Darling questioned the hurried process — “There is no development going on in the County right now. There is no need to rush this. ... We have plenty of time to proceed with this so that we understand what is going on.” After a short pause, Darling added, “And so you understand what is going on.”

Darling then made a critical point. “Nothing says you [a developer] have to go through this new PUD process.” A developer who does not see the business sense in putting 50 percent of his or her property into urban open space can still appeal to County Commissioners, who themselves may see little sense (or cents) in placing half of the developable land in prime urban areas off the property tax rolls.

If you build fifty homes on fifty acres and the open spaces are populated with Little Tykes slides, barbecues and wiffle ball games, the County collects much more property tax than it does when 50 percent of the land is placed into untaxed open space buffers between condominiums, unless you are permitted to build two hundred units and those units sell.

Darling complimented three-acre semi-rural lot development and questioned the mixed-use commercial and residential clusters that the Planning Commission and staff clearly prefer — “That’s what people move here for. If you use a tool to cluster stuff, people are not going to buy it. Not only are we going to have 7000 lots that people do not want to build on now. We are going to have clustered developments that are vacant.”

Darling closed with concerns about the “800 pound gorilla” — TreeTops — “There has been an intense amount of pressure behind this process. ... You know where it focuses. ... It has to be acknowledged and addressed because that leads to suspicion about the whole process.” TreeTops was proposed two years ago as a very intense mixed-use development — nearly two hundred homes and 140,000 square feet of commercial space. Present plans for the development may be much smaller and with much less commercial space.

For the next hour audience members stood and criticized or complimented the new development map. In general, local homeowners questioned whether the Planning Commission was adhering to the Community Plan in okaying development four miles up Piedra Road and local realtors complimented the Commission for presenting some opportunities for new projects to jumpstart a moribund local economy.

The argument both for and against the new map were thoughtful. The cartoon of not-in-my-backyard residents (with no broader concerns for the community) arguing with yes-in-your-backyard developers (with only narrow financial interests in the community) did not play out.

There was one interesting difference, however. Negative comments from residents of Piedra Road are still received by the Planning Commission as the special pleading of one part of the community (which they are) while realtors and developers who commented positively on the new map were never questioned about whether they have financial interests in any of the parcels being granted increased development rights (they do).

Al Bouchier reiterated his concerns about poorly defined density bonuses for new development. The Planning Commission has discussed allowing developers to “jump up one level of density.” This would be quite a leap — twenty-five times the zoned density for many parcels. This “jump up” is less precise than the vague definitions in the Community Plan. The Planning Commission reassured the audience that no densities would be granted to a project which were not compatible with the local neighborhood.

Joan Slavinsky, after noting her years on planning commissions and her present occupation managing 140 homes in the County, questioned the wisdom of increasing rural density — “What people want is a little room. ... I think I have a pulse on what people want when they come to Pagosa Springs, and density is not one of those things.”

Commissioner Lesli Allison emphasized that no density giveaways were planned, and that community input would be a critical factor in any application, finally stating unequivocally, “There is no density in this equation.”

Ed King noted that the planning commissioners had themselves admitted they were uninterested in living in dense clustered neighborhoods — “You said you would not want a Tier I in your neighborhood,” and then compared the Commission’s action in imposing its development map on parts of the community which object to it to the plans of oil and gas companies for southern Archuleta County.

King’s comment related to the Planning Commission’s approach to proposed oil and gas drilling on large Navajo River subdivisions. The Commission is proposing new regulations on natural gas drilling in response to the complaints of local property owners. For an hour prior to the discussion of the new development map, owners of surface property above the minerals owned by others were permitted to make very parcel-specific objections to natural gas drilling in the County.

The owners were allowed to make very poignant Wordsworth-like declarations of the pristine beauty and spiritual values being destroyed by natural gas exploration. The arguments were very big-picture and very touching.

Yet the legal right to drill for natural gas on these parcels is far more secure than the right to build a strip mall four miles up Piedra Road. And Ballot 1A was passed, in large part, to allow the County to receive a fair share of oil and gas revenues to provide services for the whole community.

But those who oppose natural gas drilling in their neighborhood are never treated as NIMBY’s.

Why not?

## **Community Plan RIP, Part Three**

Glenn Walsh | 11/19/08

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### **A New Map**

As the fourth hour of public discussion ended, the meeting was presented with another map. It is a testament to the value the Planning Commission, if not the staff, places on public input that the Commission gathered around the map at around eleven o’clock and examined it with genuine enthusiasm.

Zoe Lloyd and Bill Darling presented the map as a better representation of the growth scenario outlined in the Community Plan, which restricted most dense residential and all commercial growth to the “Pagosa Hub”.

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Zoe Lloyd and Bill Darling, critics of the new development map adopted by the Planning Commission as the County's new Future Land Use Map, present an alternate map restricting dense growth closer to the Town of Pagosa Springs.

Their map superimposed one and two mile rings around the Town of Pagosa Springs. “Most of your properties on your Tier I and II map are included” Lloyd commented.

These concentric rings, according to critics of mixed-use development further up Piedra Road, provide ample opportunity for development. “Three miles just goes too far,” Lloyd added.

Even the restrictive one-mile ring presents decades of possible development. The two mile zone, taken as a full circle of opportunity, presents the opportunity for five-fold growth. But these rings do not provide the County with a tool to fend off some annexations it does not want to occur until the Town adopts a more critical annexation policy.

*Continued...*



The one and two mile loops presented by critics encompass decades of growth opportunities north, east and south of Pagosa Springs, but spare the area south of Hatcher Lake from intensive development.

Darling again defended the semi-rural two and three acre homesteads south of Hatcher Lake. “That’s the reason we moved here, the reason we live here is quality of life. We don’t want Pagosa to be southern California.”

And Darling questioned whether the mixed-use higher density condominium campuses would work in the Pagosa market — “We have a lot of townhouses and dense development that is not selling.” Attractive condominium projects behind City Market, in Aspen Village and along the river in downtown Pagosa Springs, all very handsome and close to small and large shops, are available at upper middle-class prices and very few are selling.

Of course, very little is selling.

### **What is this?**

“I am still not right there with the objective on this process. It says it is to provide an additional tool and to be able to have a dialog but it does not yet say what I think we have been trying to accomplish. What is that tool? You put this thing on the map and it says “high density”. It is like rezoning, but we are not doing a rezoning. We are opening up an area to have a dialog that has flexibility. I am afraid of what happens if it shows up on the future land use map as possible for high density.”

These comments were not made by a audience member at the beginning of five public sessions of discussion. They were made at the end of a year of study after midnight by Commissioner Lesli Allison. Allison is the fairest and quickest study I have encountered on any board in decades of involvement with and in local government. If she has doubts, there is no doubt the audience still has them.

Ron Chacey seconded Allison's doubts about what precisely was being approved — "How does this new process show up in our code?" Where does it show so that we have some guarantees?"

Planner Cindy Schultz insisted that no densities were being granted but found it hard to put that guarantee into words — "We are having a multi-way conversation and it is this difficult. It is impossible to articulate these ideas that are so conceptual."

Allison insisted that these guarantees must be put into words — "It we make this map an amendment replacing the current Future Land Use Map, then it simply says that up in this area we think there ought to be high density. That means that the next time a rezone application comes in people will reference that map. That is the way people will interpret it. And they will rezone all the way out at that density. It will bypass the PUD process."

Allison added, "This is to provide an additional tool. It doesn't say whether it is a screwdriver or a hammer."

Bellis responded with good humor — "That is probably up for debate in the public whether it is a watchmaker's screwdriver or a sledgehammer."

But this is not a laughing matter given the thousands of acres now opened up for "dialog."

Bellis insisted that the new map would permit no rezoning outside of carefully negotiated developer agreements — "No, no, no, because the Future Land Use Map is only a tool of guidance, it is not a permissibility of zoning on the ground."

Allison disagreed. "I have seen it used the opposite way. Right here in this room. This is subtle but it is huge. If you publish a map that says high density can be extended to here and here, then whenever a rezoning request comes in there is a very good logic for approval."

In the end Bellis assured the Commission that if the new map were tied explicitly to the development requirements in the present land use code, no rezoning outside of a planned unit development agreement could be based on the new map.

And the Commission accepted those assurances.

However, given the level of doubt expressed by as perceptive a commissioner as Allison, the new map is clearly uncharted territory and perhaps not a Rand-McNally guide to future Commission and BoCC action.

## **A Brand New Plan?**

The Commission concluded its nearly seven-hour session with the question it has wrestled with for five sessions: Is this new development map an articulation and definition of the goals and policies of the 2001 Community Plan or does it represent a major change?

Bellis asked the Commission to ask itself “Are you filling out the balloon or are you popping it?”

Bellis then gave his opinion. Which is difficult to summarize fairly. Essentially, Bellis contended that the broad goals of the Community Plan — protection of open space, wildlife and scenic views, and concentration of new growth in and around old growth areas — are better guaranteed by this new map and development model than the vague definitions and broad blotches of the Community Plan.

Bellis quoted the Plan as recommending that policies be updated “as census results become available,” and explained that the plan was based on pre-2000 census population figures. “I would say that speaks for itself,” Bellis added.

Bellis did not let that speak for itself, however, but proceeded to give his very selective reading of the Community Plan — of course, everybody gives a very selective reading of the Community Plan — recommending somewhat sarcastically that “those in the audience who quote it so dearly should read it.”

This was unfair. The criticism from the audience has been very well informed and presented with far stronger adherence to existing zoning regulations than have other issues before the Planning Commission. The critics of plans to drill for natural gas on the Navajo River Ranch could suggest that drilling fluids be limited to Dr. Bronner’s Peppermint Soap and be treated with greater respect than the critics of this new map have been at times.

The Community Plan actually defines the area most critics are concerned about — the PLPOA area south of Hatcher Lake — for low density residential of one home per two-five acres.

However, Bellis presented a very fair case that the Community Plan is no longer a guiding document for specific County policies in pursuit of its broad goals. He flipped through the document, noting “PLPOA south of Hatcher Lake which the Plan says will be annexed into the Town” and then turned to another page and noted “all of PLPOA will be annexed.”

He noted that the Plan predicted all of Archuleta County would have three million square feet of commercial space in 2020. “The Town just approved a single project for two million square feet,” he informed the audience.

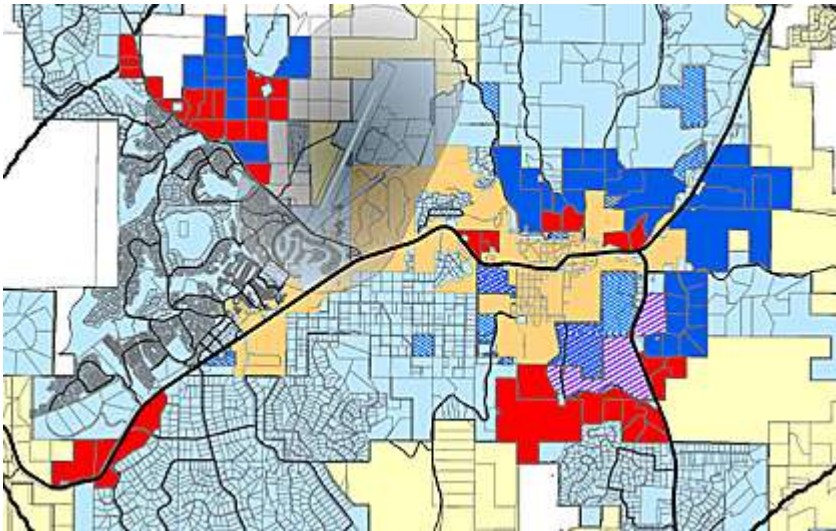
Throughout the sessions presenting and discussing the new development map, Bellis has emphasized the ability of the Town of Pagosa Springs to annex almost all of the parcels being considered for new projects. He has emphasized that the Town code can granted far greater densities than the County code permits. With few exceptions, audience members have expressed little interest and some fear at seeing the Pagosa Lakes area annexed into the Town.

Yet on page after page of the Community Plan, it is assumed that the Town of Pagosa Springs would, over time, annex most of Pagosa Lakes. That is why the Community Plan focuses on low and very low density growth.

If annexation of most of Pagosa Lakes was a key component of the Community Plan, and eight years later most of Pagosa Lakes is opposed to annexation by the Town, what is left of our Community Plan?

Can we have a community plan if one part of the community — the County — is adopting strategies to fend off the unplanned growth of the other part of our community — the Town?

While we may no longer have a Community Plan, we do have a future Future Land Use Map. After midnight, the Planning Commission unanimously approved the latest version of the USA map and will hold a public hearing in two weeks to confirm the following map as the guide to future development in Archuleta County:



Parcels in red are designated as immediately open to new development, while parcels in blue will open for development when the Pagosa Area Water and Sanitation District lifts its moratorium on new connections next year.