

# **Pagosa Daily Post**

## **Where Will Growth Go? Part One**

Glenn Walsh | 10/31/08

About fifty local residents crowded into the Archuleta County Courthouse Wednesday evening to discuss, sometimes heatedly, sometimes with bitter humor, a more or less focused development map being developed by the Archuleta County Planning Commission.

The Planning Commission has been meeting for nearly one year every Wednesday evening at hours-long sessions discussing long-range planning for future growth. The Commission has been permitted time for the long-range planning project because there have been few short-term projects to consider for a long time.

The stated purpose of the this year-long study was to give more detailed down-to-the-parcel definitions of general zoning areas and definitions in the Archuleta County Community Plan.

The right of the Planning Commission to give firmer, more objective definitions of where growth can or cannot occur within the adopted zones of the Community Plan seems clear. Applying up-to-date studies of road conditions, water and sewer availability, wildlife concentration and migration patterns, and far more detailed studies of the complex topography of Archuleta County to the existing Future Land Use Map can give both residents and developers a valuable tool for planning for future growth.

But what is the standing of the Planning Commission or Department to apply those same criteria to change the adopted development and non-development zones in the Community Plan? A year of very hard work? I have been working for years on a six-hundred page novel. My hard work doesn't obligate you to buy it. Why should we buy the right of the Planning Commission to rewrite the Future Land Use Map?

Of course, Planning Commissions and the Boards of County Commissioners can rewrite maps with arbitrary and personal decisions if they wish. The Planning Commission has decided to redraw the map based upon a set of criteria they feel is fairer to every parcel owner in the County and to make the case for the fairness of the map at a series of public hearings.

And this is only map one. We are assured that map two, designating those areas where the same criteria will make future development very unlikely, will follow next year. A map which is intended to protect most of the County's agricultural and ranch lands from the sprawling mini-estates which the Community Plan clearly opposed.

To be fair, a planned unit development process exists which allows the Planning Commission and Department to imbed their preferences within the details of development agreements largely hidden from public debate. Indeed, it is the lack of public input into developer agreements — with vesting rights of twenty-five years — offered by the Town, plans for thousands of acres as “blotchy” as the Future Land Use Map, plans approved on a seemingly “show us the RETA” basis, that is motivating much of this remapping process.

The Planning Commission and Department (suggestively renamed “Development Services” last year) have made it clear at many sessions, and repeated their claims Wednesday evening, that they do not have the planning tools they need to control and shape residential and commercial growth when it returns to Archuleta County.

The faith that intense, high-end and legally well-armed development will return to Archuleta County some time

soon is surprisingly widespread at both Town Hall and inside the County Courthouse, despite the diaspora of real estate developers, brokers and agents from the County.

Of course, many of biggest public policy challenges — reconstructing a declining network of roads, building a new reservoir and repairing the existing hemorrhaging pipelines which are to distribute this water, replacing the Town's soon to be heavily fined sewage lagoons, and creating the first County park —presume new growth and new wealth will provide the money to fix problems we have neglected for years.

So where will renewed growth go? The Archuleta County Community Plan, adopted in 2001, presented a big picture view. The Community Plan portrayed broad areas of high, medium and very low future growth. The Future Land Use Map adopted with the Community Plan has been characterized quite accurately as a collection of “brown blotches.”

However, these blotches, while impressionistic, are not incoherent or inconsistent with either the policies or action statements in the Community Plan. They seem to track remarkably closely to a very expensive County-wide poll of residents' opinions undertaken in 2007 (not a year of useless expenditures, right?).

In short, while the Future Land Use Map has a somewhat color by numbers quality, the blotches were not thrown against the map by Jackson Pollock. The Community Plan was the product of nearly thirty community meetings held across the County attended by over nine hundred residents.

The Future Land Use Map is not at all unclear about where high density growth should occur: inside the Town of Pagosa Springs. Annexations of much existing high density development, let alone new development, is assumed by the Community Plan. Just last year, the Town Manager of Pagosa Springs was still basing his desire extend Town paved roads and boundaries to much of Pagosa Hills and Pagosa Lakes upon the Community Plan, not his own designs.

The highest density provided by the Community Plan is two houses per acre. The highest density permitted by the Town of Pagosa Springs is eighteen units per acre.

If the County cannot present to developers some attractive parcels in the rather low “high density” zones of the County or the very low “low density” parts of the County close to Town, will these owners of these parcels simply petition the Town for annexation agreements which vest rights to develop at greater density for a quarter century.

However, the overflow crowd at the Courthouse Wednesday night did not attend because of an overriding concern with how Town annexation plans might affect parcels of land along Light Plant Road. Or how greater density of development may affect the agricultural parcels behind the commercial strip along East Highway 160.

The scores of County residents were there because two years ago, Archuleta County was set to approve a residential/commercial project in their neighborhood on their long neglected and poorly engineered road. A project in scope that the Town of Pagosa Springs has yet to entertain in one of its existing neighborhoods.

The TreeTops development proposed to construct 172 residential units and 140,000 square feet of commercial space on a 52-acre parcel zoned for 10 residential units. The surrounding area is zoned for one unit for each three acres. The effective density, including unbuildable lots and lots purchased as buffers by homeowners, is well over one unit per five acres.

The sketch plan for the project was approved without public input. A County Commissioner was one of the investors. No road improvements were initially offered by the developer. Of course, no previous developer had been assessed these fees either.

Apart from the dubious location, the outlines of the project were intelligent and attractive.

So, when a new development map designates those same 52 acres for more intensive development, permitting in theory a density increase from 10 to 250 homes, when the narrative accompanying the new map emphasizes the need for attractive residential/commercial mixes, and when the same development map assumes that a crumbling patchwork of poorly engineered swerves is the major artery for this new development, why would people stay home on a Wednesday night.

If these people would like to enjoy their homes for the next ten years. Can people oppose big projects in their big backyards and not be labelled "NIMBY's"?

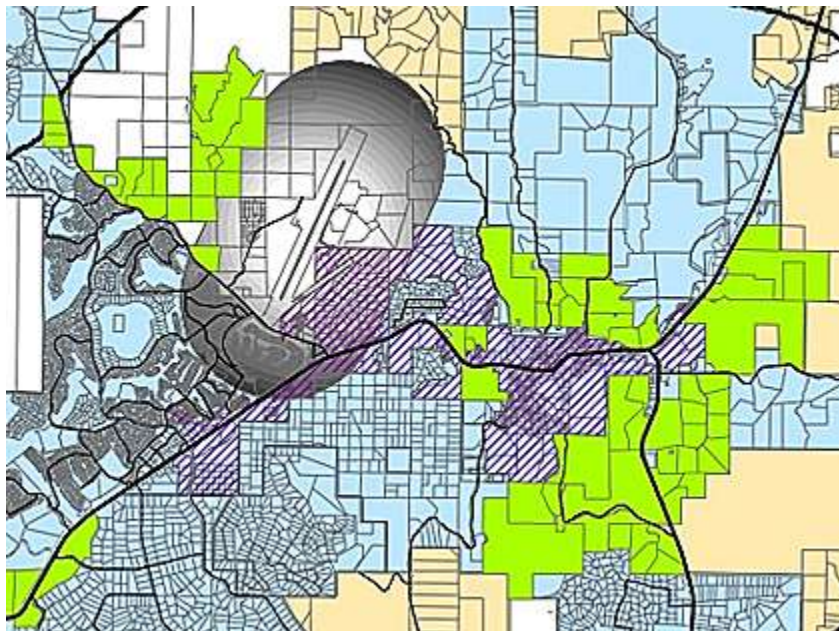
## Where Will Growth Go? Part Two

Glenn Walsh | 11/3/08

“The Community Plan is in fact out of date,” was the candid assessment County Planner Cindy Schultz made last week at a public work session of the Archuleta Planning County Planning Commission.

According to Schultz, the County's Plan is “creating problems for anyone who wants to take any parcel in the County and develop it in any manner.”

This is a rather stark assessment of the restrictions placed on growth by the 2001 Plan, which certainly countenanced a great deal of construction activity from 2001-2007. *Continued...*



The Planning Commission is proposing a new development map, called an Urban Services Area, which would permit more intensive subdivision of the parcels colored green on the above map. The Planning Department does not feel present zoning is legally justifiable unless

growth areas are designated.

Schultz then gave the roomful of concerned citizens a fair but somewhat selective characterization of the Community Plan, which is supposedly hamstringing County development, emphasizing the Plan's own claim to be "an advisory document only."

The Community Plan, however, after noting its "advisory" status, continues in the same sentence: "... it is the basis for revising existing regulations or enacting new regulations, and for evaluating development proposals and guiding project review recommendations." After BoCC approval (which the Plan received), plan language asserts: "Development proposals will be evaluated based upon their conformance with the plan."

Certainly the Community Plan places emphasis on managing the traffic, landscaping, lighting and noise impacts of relatively low density (two units per acre) development in the semi-rural parts of the County. It places severe restrictions on even low-density development of farm and ranchland. However the Plan permits higher density to the greater Pagosa Springs area, the existing 7,000 platted lots in Pagosa Lakes and proposed village centers at Aspen Springs, Chromo, and Arboles.

The development potential of those 7,000 lots is very low according to present analysis of the Planning Department. This is a key assertion supporting the new development map.

As Schultz was finishing her summary of the defects of the Community Plan, Planning Director Rick Bellis walked into the room, seemingly ready to deal with local NIMBY bellyaching that he suspected was being manipulated and orchestrated by a land speculator.

Bellis asserted that the Community Plan and the County zoning map adopted in 2006 had created an illegal de facto moratorium. "Any developer who wants to come forward can prove to the judge that he cannot build in this County, and more than likely he will win that case and will be able to build whatever they want."

Bellis also presented a practical reality. If the County does nothing to provide modest development opportunities to some open parcels not now zoned for growth, those parcels will be annexed to the Town of Pagosa Springs -- "Or we can do nothing and whoever owns that piece of property will go to the Town and say 'Annex it' and the Town will allow three times the maximum density that we would allow."

Bellis defended the examination of properties within a three-mile circle of Town for future development projects -- "We are being fair to every property owner in the County. We are not using subjective judgments saying 'Well, I don't like that because it is in my neighborhood.'"

Planning Commissioner Ron Chacey supported Bellis' concerns -- "We are stopping big development and it is not particularly legal the way we are doing it."

This is a significant claim by both the Planning Director and a very prominent member of the Planning Commission. For them, the Community Plan, the County's land use and development code and the zoning map are legally indefensible in court unless more accommodation is made for large development projects.

Audience members then began to speak. The conversation would continue for three hours. The audience directed clear-eyed and detailed criticism — not NIMBY whining — at the new development map and process which has produced it.

Chuck McGuire sized up the magnitude of the changes being proposed: "This process is one that will update or

replace the Community Plan. For that plan there were some 28 public meetings with over 900 members of the public involved with the development of that plan. ... Pick the criteria that is most pertinent, but determine what that criteria is by garnering as much public input as you can."

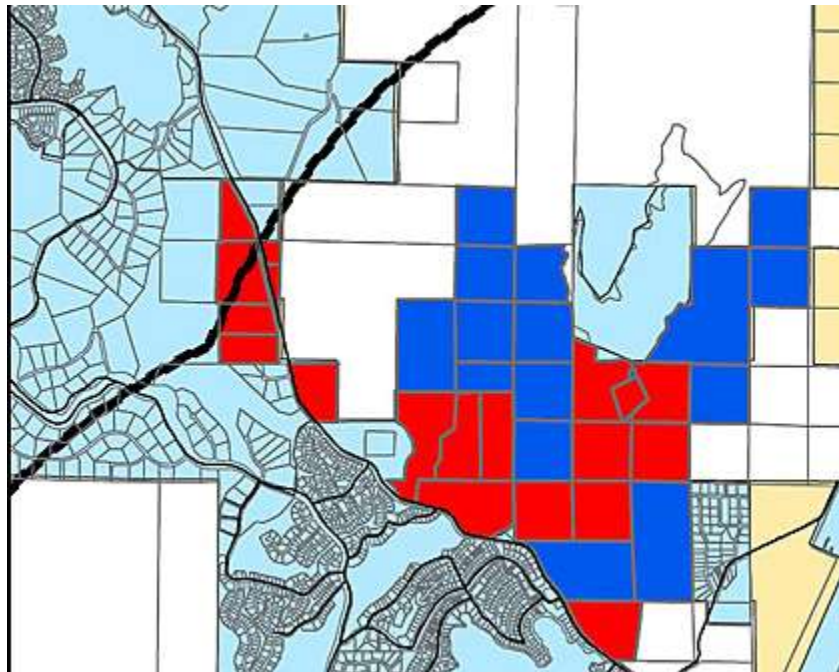
McGuire saw the new development map was not merely informational, describing the process as "sort of dictating to the public where and what kind of development can take place in our community. ... This Urban Services Area process could conceivably change the entire face of our community."

That criteria for allowing new development was then subjected to perceptive criticism.

Schultz reported an interesting change. The criteria for development within three miles of Town has been watered down essentially to water availability. Proximity to a major road and large lot size -- two of the three criteria -- are now given less weight due to their being "subjective criteria."

Subjective? One lot is a platted 10 acre parcel zoned and taxed as unimproved residential; another is an unsubdivided 230 acre parcel zoned and taxed (very lightly) as agricultural. Are these distinctions subjective?

One lot has seven hundred feet of frontage on US 160; another is located three miles north on Piedra Road and then two miles northeast on a narrow dirt road. Is this distinction subjective? *Continued...*



Two questions: The new development map for Piedra Road designates parcels in red and blue that are not only miles from a major road, but miles from any road. What criteria are being applied here? Lower on Piedra, can the County tell developers that the right hand side of the street can't do what the left hand side has already done?

The audience was clearly uneasy with the downgrading of criteria which were the supposed basis for a year of analysis. Ed King asked, "A big part of the criteria is who picked the criteria." King questioned whether the Planning Department had considered the actual disrepair of Piedra Road and then added, "There is nothing on your criteria about our quality of life."

Schultz responded, "The reason we picked those three criteria is because they are objective. Quality of life is

not objective at all.” Her comments were drowned out by dismissive laughter as King replied, “I rest my case.”

Schultz refused to be dismissed, and insisted that quality of life was an unworkable planning tool.

Quality of life, particularly rural, semi-rural and small town quality of life, is perhaps the central emphasis of the Community Plan, however. The phrase, while hard to define, is also impossible to avoid on most pages of the Community Plan. Or in any survey of County residents.

One searches in vain for mention of mixed-use development, transit nodes or carbon footprints in the seven-year-old document. The Planning Commission's insistence on adopting these concepts into the Plan would become the hot topic in hour two.

Steve Wirth, the owner of a large agricultural parcel four miles north of Town on Piedra Road objected. “Quality of life is a huge issue to me. ... The quality of life is why people came. All the people around our lot bought out there so they could have some space around them. I think they are still entitled to that.”

William Darling, a local lawyer and real estate developer, agreed. “Everybody in the room is agreed that quality of life is a very important criteria — and yet it is not on the list. ... A lot of things in our life are difficult to quantify, but we all feel they are very important. ... That's why we moved to Pagosa Springs, and that's why we bought and live where we bought and live.”

When a successful real estate developer and lawyer has to defend the big-picture themes of a Community Plan against hasty adoption of development criteria by planning staff, you realize that times have changed in one year. Early last year the County was considering a building moratorium. Remember?

## **Where Will Growth Go? Part Three**

Glenn Walsh | 11/4/08

The Archuleta County Community Plan places more emphasis on quality of life than any other broad concept. The “qualities” most frequently invoked are “small town”, “rural”, and “low density.”

Increasingly, and troublingly for some, Americans in rural areas also identify their quality of life with a very broad and expensive menu of government-provided services. Almost automatically, government comes to identify quality of life with the efficient delivery of these services.

As these services — water, roads, emergency medical care, recreation centers, all weather trails, festival streets, Halloween parties, virginity balls – become more and more expansive and expensive, it becomes more efficient to “locate” people clustered around these services.

But do people want to be clustered into higher density mixed-use residential and commercial campuses surrounded from neighboring developments by a 50 percent buffer of open space?

The concept of these mixed-use campuses is never mentioned in the Community Plan. Neither does the Plan give power to the Archuleta County Planning Commission and Community Development Department to create a new development map based upon a set of self-chosen criteria.

That new map – tentatively titled an Urban Services Area — has been the subject of three public meetings at the County Courthouse. The first two were poorly attended. The third, last Wednesday, attracted a standing room

only crowd (with some standing in the hallway).

The map selects properties which may be granted greater development density, perhaps increases over 500 percent, if the developers enter into development agreement with the Planning Commission.

This plan — and this is a personal judgment — has four motivations.

First, to provide owners of properties liable to annexation by the Town of Pagosa Springs with an attractive development alternative at much lower densities than the Town is providing to developers. For instance, Wednesday night the Town Council may grant a Florida developer a 20-year vesting period (state law maximum is three years) for a project at the intersection of Highways 160 and 84 which is 1000 percent more dense than the TreeTops proposal.

Second, the plan seeks to protect the County from lawsuits from wealthy, legally astute owners of properties near reservoirs but miles from any “criteria-worthy” roadway or dense residential development.

Third, the plan provides strong incentives to create denser, multifamily developments along the length of Piedra Road, with inclusionary affordable housing and regular service of bus routes.

A fourth motive is to use the availability of these higher development areas close to already developed areas as a rock-solid legal defense of agricultural and ranch lands outside of the Pagosa Springs downtown and Pagosa Lakes area.

But what if the thousands of people who live in Pagosa Lakes do not feel that this plan fits with their plans, or the Community Plan?

The roomful of County residents who spoke at last Wednesday’s Planning Commission registered very detailed, very perceptive complaints with the new plans for Piedra Road (which do not as of press time include improvement of Piedra Road).

First, the audience complained about the lack of notice about this replanning effort. The audience was told that notices had been placed in the papers and on the County website. *Pagosa Springs SUN* reporter Chuck McGuire replied, “You mentioned two highly publicized meetings that ironically none of us knew about and I work for the newspaper and I did not see the notice.”

Most normal people, unlike those who attend planning sessions until midnight (and those who cover the meetings) go online to check for emails from their grandkids, not to read the updates on the Planning Department webpage. Indeed the same advances in computer technology and data manipulation which have permitted the parcel by parcel mapping for intense development can be use for extensive notification of those who own parcels near new development areas.

There is an apparent reluctance to have people directly affected by new development proposals involved in these decisions on that basis.

Planning Director Rick Bellis was clear that a criteria-based approach to determining new areas for growth should not pay particular attention to neighborhood complaints. He summarized half of the letters he receives — “It’s a good project. I just don’t want it next to my house. Put it across the street.” Bellis invited public input on the criteria, but advised that taking local complaints would “invalidate the objectivity for the rest of the community” and that the Commission would “never achieve a community consensus.”

This tentativeness about taking specific questions about specific parcels made by people directly affected by development led to an odd occurrence. The Archuleta Planning Commission started to look like the other boards in Town. The direct and frank dialog one expects from this board was replaced with frequent “mother, may I?” glances to staff and very tentative responses.

It is worth noting that the Community Plan places great weight on local input to development decisions, calling for “maximum public participation,” “an area-by-area basis, with serious consideration by the residents of those areas” and plans which are “customized to reflect the values of those residing in those areas.”

These may be unworkable or legally untenable ideals if development pressure ever returns to the Pagosa triangle of Piedra, North Pagosa, US 160. They may reflect former confidence in growth which has proven to be anything but inevitable.

But they are ideals emphasized by the Community Plan, which never mentions the objective application of criteria on a parcel-by-parcel basis by Planning staff.

Opinions from the audience about the new mixed-use high density development model were not tentative and not-NIMBY.

One gentleman introduced himself as speaking with a “special status of having bought here in Pagosa this year. Not many have done that this year.”

He presented a positive view of what attracted his family to Pagosa Lakes. "What we were looking for when we came here was what you said you don't want. You don't want the two, three, five acres, or thirty-five acre properties. You want the PUDs where you lump the people here and put green space around them. That's not what I want at all. I can find that back in Texas. I was very attracted to property a little away from the developed area that had a three-acre lot."

Local resident Al Bouchier spoke about the proposed density “jump” which could in theory give a developer an increase from one home per five acres to five homes per acre, plus commercial spaces. “It is quite a jump. It is pretty dense. We need a couple of steps in there. And if we knew what those steps were, it would change my whole take on what criteria we need to develop. That should at least be put out as a draft.”

Bouchier added, “Three to fives acres. That's what I bought into. That is what I wanted.”

Bruce Anderson, a local photographer, asked for more detail about the mixed-use campuses the new map might permit — “I need to see scenarios of what that might look like, and where it might look like that.”

The Planning Commission members responded very frankly, and with good humor, that none of them lived on small parcels or in clustered housing, and conceded that they did not wish to.

Commissioner Lesli Allison was very open about the “non-criteria” reasons she was open to a different model for developing County residential properties — “Most of us live on large parcels. The problem is that people come to an area and you've heard the term ‘loving it to death’. Everybody wants a piece of paradise and when everybody arrives in paradise, there's no more paradise, all that is left is people.”

Allison presented a destructive scenario — “These three acres can cover the entire County, destroying wildlife, destroying scenic land and you destroy intact corridors of open space ... You can't continue ranching and

farming.”

Throughout the meeting, Allison was direct — no mother-may-I glances to the planning staff — and very open to audience criticism. Unlike a couple of Commissioners, Allison never commented that the audience was interrupting the Commission from “getting on with their work.”

And Ron Chacey closed the public session by insisting that there would soon be more work to do. “The next wave of people coming here is going to be bigger than the last one.”