



# TOWN OF NEDERLAND PLANNING COMMISSION REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER  
750 Hwy 72 Nederland, CO 80466

April 26, 2017 - 7:00 P.M.

## MINUTES

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### A. CALL TO ORDER

Chairman Cornell called the meeting to order at 7:05 pm.

### B. ROLL CALL

**Present:** Chairman Roger Cornell, Trustee Stephanie Miller. Commissioners Timmy Duggan, Greg Guevara, Jesse Seavers, and Stephanie Herring.

**Absent:** Vice Chairman Steve Williams. Timmy Duggan arrived after Roll Call.

**Also in attendance:** Land Use Attorney Nina Petraro and Planning and Building Technician/Commission Clerk Cynthia Bakke.

### C. APPROVAL OF MINUTES FROM March 22, 2017

Motion to approve the minutes as written was made by Chairman Cornell, seconded by Commissioner Herring, with 4 in favor, and abstention by Trustee Miller who was not present for the March meeting due to the quasi-judicial application being reviewed.

### D. PUBLIC COMMENT

There was no public comment on non-agenda items.

### E. INFORMATION ITEMS

There were no information items.

### F. ACTION ITEMS

#### 1. Planning Commission new member application for Chris Perret

Chairman Cornell said Perret had to pull his application due to schedule conflicts.

Chris Perret, of Nederland, said he formerly withdrew his application due to family medical appointments on Wednesdays. He said he supports Glasser's appointment to the Commission.

## **2. Planning Commission new member application for Linda Glasser**

Chairman Cornell said Glasser has lived in Nederland for many years and understands the historical context.

Linda Glasser stated her awareness of the confidentiality required for the position, a component of her job working for the Post Office. Glasser said she was also on an 18-month sequester for federal jury duty for which she took an oath of confidentiality.

**Motion to recommend approval of appointment for Linda Glasser made by Chairman Cornell, seconded by Commissioner Duggan, with 5 in favor, and abstention by Trustee Miller.**

## **3. Discussion of a draft ordinance and Public Hearing regarding Short-Term Rental Licensing Program and associated regulations.**

Bakke introduced the item noting the previous discussion on February 22, with the first Public Hearing held on January 25. She said short term rental is defined as a stay of 30 days or less.

Bakke summarized elements of the draft ordinance which includes options of allowance for only one property or up to two properties maximum as previously directed by the Commission. She said the Commission discussed the requirement for a life safety inspection, onsite parking, utilities accommodation and one-hour property response time by property owners and/or property managers. Lastly, she noted the furtherance of the Board of Trustees' housing goal as the driving force behind the regulation as the use is already being in seen in the community which could inhibit long term housing.

Chairman Cornell said the definitions in the draft have been updated, which the Commission will discuss further and make a recommendation to the Board of Trustees.

### **Chairman Cornell opened the Public Hearing.**

Kayla Evans, of greater Nederland, said STR takes away from the hotel in town along with properties that should be used for long term rental because it is more lucrative for a property owner. Evans said a property owner and guests appear to be the sole beneficiaries of the allowance which doesn't address the community's need.

Chairman Cornell responded that staff is already seeing an uptick in the use, and the intent is to regulate and control the use to avoid becoming rampant.

May Jarrill, of Nederland, said she is an airbnb host and the revenue provided by guests is a boon for local businesses. She said she doesn't understand the need for regulation and suggested convening a town workshop with a moderator to discuss housing and the desires of property owners, as well as how town resources will be spent generally. She encouraged the Commission to allow property owners the allowance for at least 2 properties, and not mimic regulations of larger municipalities.

Commissioner Herring asked about anticipated license fees as she was of the

understanding that the program fees would not burden the town administratively.

Ellen True, of Nederland asked about the cost of program. Bakke said that the fees for long term rental were already proposed, although short term fees were not entirely set.

Trustee Miller said the STR regulations were built off the long term rental model, although the inspection for STR is every 5 years, not 3 years as proposed for long term rental. She said the cost should be clarified in the documentation; however the intention was to keep costs minimal for the property owner because of anticipated onsite property owner management.

Ellen True, of Nederland said the premise seems to restrict the use more than regulate. She said she can see how it can affect long term rental availability, but was sure this is an appropriate response. She mentioned concerns about one-hour response time, septic inspection, and offstreet parking which would be a challenge in Old Town. She said she would rather support Option 2 in case they move, and retain their Nederland residence.

Stephanie Miller said Option 2 wouldn't allow the use for out of town property owners unless residing in the town for 6 months or more, as the regulation intended to support goals of affordable housing instead of out-of-town/state property owner investments.

Kathleen Chippi, of Boulder County, said this affects property owners' rights and she doesn't understand why compliance checks are necessary. She said the previous Town Administrator supported the town government playing property managers and tenants don't call Town Hall if there are issues on private property. She said she doesn't agree with the exclusion for those not living in town more than 6 months.

Ron Mitchell, of Nederland, said there are conflicting ordinances on the books that lead to lawsuits. He implored the Commission to include a path of appeal within the ordinance to avoid lawsuits for the town, as has happened in the past.

Kyle Krall, of Nederland, said he is in favor of the regulation because there are at least 4 airbnb rentals on his street, with two run by out-of-state property owners. Krall asked about penalties and enforcement and expressed dismay these houses were sold at the top-end of the market for this use pricing out most families. He said Nederland saw more investment when Boulder passed STR regulations, with some houses immediately turned into STR investments.

**Chairman Cornell closed the Public Hearing.**

Chairman Cornell said there were many issues brought forth by the public in previous meetings and public forums. He said the options are either one property for STR or one owner-occupied property able to provide STR along with one additional property. He said owner-occupied airbnb rental is less problematic, and more discussion is needed regarding utility concerns.

Commissioner Seavers said he is recusing his vote due to airbnb rental of his home

along with an adjacent house at which he also provides STR.

Commissioner Herring suggested the inclusion of the housing study results within the ordinance demonstrating the shortage of housing availability. Responding to Kathleen Chippi's comment, Commissioner Herring agreed the Commission doesn't serve as property managers, however does help to manage the fabric of the community through zoning. She said she supports Option 1 only in a principal residence to support housing goals, which won't preclude property owners from providing long term housing at another location. She expressed concern that if STR is allowed upon two properties, it would be a challenge to revert back to option 1.

Land Use Attorney Nina Petraro said she will rewrite the ordinance to address any foregoing concerns from the Commission, noting the need to be a primary resident in Nederland.

Commissioner Guevara thanked the Public whom came out to speak and said he's not decided between the two options, although Option 1 would limit rental of an entire house to a family. He said he wasn't sure the life safety inspection was a necessary component.

Trustee Miller said any proposed legislation would affect those already in operation. She explained this issue is being evidenced across Colorado with previously provided data about communities with over 60% of housing stock used for STR. She said the intention of establishing regulation is to restrict the use to support long term residents, BVSD employees, and the workforce who may not receive a living wage. Miller said she's concerned about enforcement with Option 2, but would also support removal of the life safety inspection and property response time as other Commissioners have suggested. She noted the STR ordinance mentions long term rental licensing; however the latter has not yet been passed.

Commissioner Herring said Sec. 16-32 Use group tables allow the use as a special review in the Public zone, although this should be prohibited.

Chairman Cornell said the existing uses could be grandfathered, if Option 2 proves to be problematic. He said he supports a reasonable property response time. Cornell said the administrative procedure needs to be clarified for the Board of Trustees review. He mentioned concerns presented to the Commission regarding safe fireplace/woodstoves operation to avoid improper ash disposal or chimney fires, along with insuring access to property as driveways with steeper grade not up to code may create issues for guests and require assistance from Town staff.

Trustee Miller said Sec. 6-292(j) requires application for license within 10 days after ownership transfer, but this may not be realistic. She suggested this be changed to 30 days after property transfer.

Commissioner Seavers asked about procedure. He asked if he is considered a member of

the public able to speak at the Board of Trustees review. Chairman Cornell said he is not allowed to speak to the issue due to the conflict of interest as a Commissioner. Petraro said she will confer with Town Attorney Beery.

The Commission took a straw poll regarding the two options presented with the majority opting for Option 2 to allow STR at one primary residence plus one additional property and elimination of response time and life safety inspection. It was mentioned that the ordinance could be revisited at a later time if there are issues arising with the use. Commission Herring requested inclusion of her support of Option 1 to support housing goals, but said she didn't want to vote against the use.

Chairman Cornell said there are only 4 voting members present due to a Commission vacancy and excused absence for Vice Chairman Williams.

Trustee Miller suggested a longer grace period for those already in operation such as 90 days after the ordinance is passed to ensure compliance.

**Motion to recommend approval of Option 2 (one primary residence + an additional property) with elimination of life safety inspection and property response time, prohibition in the Public zone, 30-day timeline for licensure in the event of property transfer desiring to continue the use, and 90 day implementation period, seconded by Commissioner Duggan, with 4 in favor.**

Chairman Cornell called for a short break. The meeting was convened at 8:43 pm.

## **G. DISCUSSION ITEMS**

### **1. Discussion of allowance for Tiny Homes/Accessory Dwelling Units and associated regulations**

Chairman Cornell introduced the item noting previous discussion regarding Accessory Dwelling Units (ADU's)/Tiny Homes on February 22.

Chairman Cornell said he reviewed various studies from which he compiled concerns to further discuss this item which he passed around to the Commission. He said the Commission can review the list of common themes found in other provided and/or linked studies to amend as seen fit.

1. On-site owner occupancy either in the primary house or ADU is prevalent in order to avoid Nuisance code additions.
2. Same utility service with monthly fees billed to primary residence.
3. Same setbacks as principal residence
4. Must meet yard and bulk requirements, i.e. setbacks, height, lot coverage.
5. Onsite parking required for renters
6. Similar architectural elements as the principle residence
7. Height requirement – 25 feet maximum for new building, not existing per Chairman Cornell. Trustee Miller and Commissioners Herring and Guevara, did not support the height requirement.

8. Limitation of unit size, often seen in proportion to principle residence. Bakke said an equal floor area would likely constitute a duplex.
9. Occupancy restrictions for unrelated tenants
10. Occupancy maximum of building for related tenants
11. Storage area – The Commission discussed whether this should be required, and limitations to the proliferation of storage sheds, excepting lot coverage.
12. Limitation of one ADU per property – Trustee Miller said many studies required a separate entrance. Bakke said this may be an element of fire safety; however she indicated the need to clarify the difference between a duplex vs. an ADU. Miller pointed out the prohibition in code for multifamily residences via remodel and separation in a basement.
13. Utility inspection and approval and/or septic adequacy and maintenance – For new units or remodel/addition, not an existing basement apartment.
14. Required license and inspection
15. Separate entrance – only necessary for a detached unit
16. Clear definitions for ADU, duplex – Chairman Cornell mentioned definitions included in an ADU study for Portland, Oregon.
17. If allowance via Special Review Use, required public notice. Commission consensus was to regulate similar to multifamily residences if meeting all aspects of yard and bulk.
18. Home occupation business allowance for only one structure, not both. This will require a change to Sec. 16-76 which prohibits operations in an ADU or garage.
19. Bathroom required.
20. Sink is essential; however a cooking area may not need a full range

Bakke said the definition for Guesthouse notes use of same utility line and this may require further clarification. The Commission was in consensus to allow short term rental in an ADU. They further discussed the allowance for basement apartments within a principle residence. Trustee Miller requested inclusion of definitions for ADU, duplex, and multifamily residence. She mentioned the need for a local amendment to the building code regarding allowance of a ladder to a sleeping loft, pending further discussion with the building inspector.

Bakke said there may be need to count additional units for the annual census.

Chairman Cornell said Town staff will draft a forthcoming ordinance, and it may be beneficial to convene a committee to help draft the license.

Commissioner Duggan said basing occupancy limits upon the number of bedrooms could be a way to regulate occupancy maximums.

Commissioner Herring said the parking requirements are clear in code to be enforced, rather than mandating parking for the property itself.

Due to time constraints, the discussion concerning Tiny Homes was tabled.

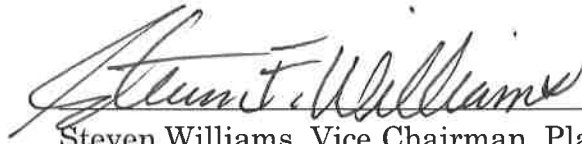
**H. OTHER BUSINESS**

Chairman Cornell said he will not be at the May 25 meeting. Bakke said she would send out a quorum request in order to ensure attendance as she anticipated a forthcoming application.

**I. ADJOURNMENT**

**Motion to adjourn by Commissioner Herring, seconded by Commissioner Duggan, with all in favor. Meeting adjourned at 9:50 pm.**

**Approved by the Planning Commission,**



Steven Williams, Vice Chairman, Planning Commission

ATTEST:



Cynthia Bakke, Planning and Building Technician

