



# TOWN OF NEDERLAND PLANNING COMMISSION REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER  
750 Hwy 72 Nederland, CO 80466

January 25, 2017 - 7:00 P.M.

## MINUTES

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### A. CALL TO ORDER

Chairman Cornell called the meeting to order at 7:02 pm.

### B. ROLL CALL

**Present:** Chairman Roger Cornell, Vice Chairman Steve Williams, Trustee Stephanie Miller, Commissioners Timmy Duggan, Greg Guevara, Jesse Seavers.

**Absent:** Commissioners Wendy Williams and Stephanie Herring.

**Also in attendance:** Town Administrator Alisha Reis, Planning and Building Technician/Commission Clerk Cynthia Bakke.

### C. APPROVAL OF MINUTES FROM December 14, 2016

Motion to approve the minutes as written was made by Chairman Cornell, seconded by Commissioner Duggan, with all favor.

### D. PUBLIC COMMENT

There was no public comment on non-Agenda items.

### E. INFORMATION ITEMS

There were no information items.

### F. DISCUSSION ITEMS

#### 1. Consideration of a draft ordinance and Public Hearing regarding Short Term Rental Licensing Program and associated regulations

Reis introduced the item. She said the topic's memorandum overview makes the distinction between long term and short term rental licensing, with the latter providing regulation for stays of 30 days or less, requiring remittance of sales tax.

Reis said primary concerns were put forth in previous discussions and subsequently included within the short term licensing framework. She said the code language would be added to Chapter 6 for Business Licensing, and Sec. 16-32 Use Group charts to illustrate the use within

allowable districts. Reis indicated the Commission will further discuss this item with the ability to hold a forthcoming Public Hearing.

The Commission discussed lodging tax establishment, which Reis said would require approval by a vote of qualified electors. She noted that sales tax collection is required by the State of Colorado, although most STR hosts are not currently doing so.

**Chairman Cornell opened the Public Hearing.**

Ron Mitchell, of Nederland, asked for consideration regarding the maximum allowance for 2 STR's by one property owner. He added the revenue collection may not cover program implementation costs.

Dale Miller, of Nederland, said he thought the program was based on Boulder's program which limits STR's to one residence. He asked if the town desires to remain a residential community or become a resort community. Miller expressed concerns about ensuring adequate septic systems for those homes not on the sewer system.

Doc Conway, of Nederland, asked why limitations on rental units were proposed.

Reis described concerns about maintaining the community's character, along with support for affordable housing goals. Trustee Miller provided further information regarding housing goals and data from other communities with high STR usage altering the community, along with the need for equity on behalf of hotel uses.

Darryl Purpose, of Nederland, said he has successfully utilized his property for this use with beneficial revenue remaining in the community. He said he's hosted well over 100 groups with no associated issues.

Kristi Venditti, of Nederland, said she works with the Emergency Family Assistance Association (EFAA) and is hearing from families who are unable to find housing in the community due to STR's.

**Chairman Cornell closed the Public Hearing.**

Commission discussion arose about the importance to reach a balance through regulation without discouraging the use. The Commissioners were not in agreement as to whether a maximum allowance of 2 properties is appropriate, although the Commission supported 1) onsite or nearby property management identified and 2) a requirement of a Life Safety inspection prior to operations. The Commission further discussed whether a maximum number of STRs overall within the town would be appropriate.

Commissioner Seavers asked if he should recuse himself as he has been utilizing STR's at his home, with subsequent revenue utilized to fund an additional home currently being used for STR. He said he'd support an increase of the allowance for at least 3 STR properties per homeowner, as he would like to acquire another house for this use.

Commissioner Duggan said City of Boulder's STR regulation had an incredible effect upon the market, with clear regulation and enforcement having an effect on adding to long term rental stock. He said he would support restrictions for offsite owners and would like to know if other communities support an owner limit.

Trustee Miller said Durango only allows one per block with a cap for the whole town. She said the allowance for 2 properties represents a compromise from other policies reviewed, and with limited housing stock she'd support a cap for individual property owners.

The Commission directed staff to present different options before the item returns for a future Public Hearing.

## **G. ACTION ITEMS**

### **1. Consideration of a rezoning application and Public Hearing at 502 and 504 S Peak to Peak Highway for Kevin Kafka**

Reis said the original rezoning request was approved by the Planning Commission and Board of Trustees in 2005, as noted in the packet materials. She explained the zoning change was overlooked because it wasn't accompanied by an ordinance, with any subsequent zoning map updates superseding previous changes. She said the Commission may consider the compatibility of the request per NMC Sec. 16-255.

Applicant Kevin Kafka said he specifically purchased the parcels for the High Density Residential zoning, but discovered during the due diligence phase that the properties were zoned Low Density Residential (LDR). He said he worked with Town staff to locate documents pertaining to the replat recordation done in 2005 and agreed to go through the official rezoning process with all fees waived due to previous administrative error in not memorializing the prior decision in ordinance. Kafka indicated his desire to redevelop the properties with small affordable units to provide long term affordable housing.

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

Bonnie Graham Reed spoke on behalf of her father whom owns 506 S. Peak to Peak Highway, whom she said didn't receive the public notice in 2005. Graham Reed said her father would like the properties to remain in the LDR zoning district in keeping with the surrounding houses. She noted increased density may affect access for neighbors.

Dawn Baumhover, of Nederland, said she resides at the property under Marshall Field's ownership, and she was asked to represent the concerns of Mary Wingate, another nearby property owner. Baumhover asked how many units each parcel would hold being as affordable housing often concerns multifamily housing.

Kafka responded to questions about density and parking. He said he would not maximize the allowable units during future redevelopment with new units intended to be in the affordable housing range.

Commissioner Duggan asked if there was a deed restriction that precludes future subdivision.

Reis said this was not contained within an ordinance despite the mention within attached 2005 minutes..

Commissioner Seavers asked Kafka to speak to neighbor concerns regarding the driveway. Kafka said the properties would utilize the easement for the driveway along with access from Rollinsville Road. Chairman Cornell indicated a need to review associated driveway standards to ensure compliance.

Robert Jordan, of Nederland, said he was a resident from 1999-2007 who just purchased a property in the town to be established as a long term rental. He said the previous rezoning appears to have been clearly documented with unanimous approval in 2005. He said the property appears to be able to handle the density Kafka proposes.

**Chairman Cornell closed the Public Hearing.**

The Commission further discussed the future redevelopment for multifamily housing upon these parcels. Reis noted administrative streamline for multifamily housing developments may soon be approved by the Board of Trustees as a use by right.

**Motion to recommend approval was made by Chairman Cornell, seconded by Commissioner Seavers, with 4 in favor and Vice Chairman S. Williams opposed.**

**2. Consideration of a Preliminary Planned Unit Development (PUD) application and concurrent Rights-of-Way (ROW) vacation and Density Increase for BCHA on Block 27, Lots 1-10**

Reis introduced the item. She said the property is zoned Neighborhood Commercial (NC) and provided the neighborhood context. Reis stated the Preliminary Planned Unit Development (PUD) review includes concurrent applications for a Rights-of-Way (ROW) vacation request and Density Increase allowance exclusive to the NC district. She said the parcel plus square footage from vacated roads would allow for a maximum of 30 units if the vacation request is granted. Reis said all associated noticing requirements were met.

Representatives from Boulder County Housing Authority (BCHA) spoke to their Preliminary PUD application for approximately 36 units of affordable housing on Block 27, Lots 1-10, across from the RTD substation.

BCHA Housing Division Manager Norrie Boyd provided data regarding Area Median Income (AMI) ranges within Boulder County and noted over 63% of Boulder County residents are priced out of the market due to increases in median home values and rental costs. She said affordable housing units will serve working families, single-parent households, people with disabilities, and senior housing. Boyd said there are 118 people on a waiting list for a housing unit in Nederland, with approximately 2 vacancies available per year.

BCHA Planner Lambert noted projects around Boulder County including in Louisville. He said BCHA would like to create an inclusive community housing development serving residents within the 30-60% AMI range, with the vacation of ROW's intended to allow

additional units beyond the density increase request. Lambert pointed out project features such as a community garden, onsite storm-water management, and Nederland suitable architectural features with mass transit near to the site.

Coburn Architect Pete Weber said the 36-unit development as proposed was centered on the parcel to create larger setbacks, with a storm-water detention area at the front of the parcel, with parking, a community garden, and path connection from 2<sup>nd</sup> to 3<sup>rd</sup> Streets situated to the rear of the property. Weber said the building will feature natural colors and materials, along with variable façade elements to avoid a monolithic look. He added the site will comply with downcast lighting requirements and low-water use landscaping.

Lambert discussed the project timeline, which requires submission of application for funding by June 2017 to provide housing by June 2019, and further explained the funding challenges that beset housing projects. He said higher density is being sought in order to provide more units and amenities and provided a general project example to highlight the difference in costs. Lambert and Boyd noted density bonuses were granted in both Lafayette and Crested Butte due to associated community benefits.

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

Leonard Kottenstette, of Nederland, said he didn't receive a Public Hearing notice despite being within the 300-foot buffer. He said 36 units is too dense, and asked if they would consider moving the building further north on the parcel for better solar access and further west to avoid the flood plain. He said a greenhouse may be a better option for the site in consideration of the approximate 60-day growing season. He said he'd like to know the cost difference between a 30-unit versus 36-unit development.

Tom Neil, with Calvary Chapel, said Calvary would like to retain the parking area on Johnson Street (east right-of-way) for their use. Neil mentioned discussions about parking when the Library was built, as well as the RTD lot.

Boyd said a licensing agreement could be drafted to allow continued parking, but BCHA is not in support of a through-road along Johnson Street. Neil said Calvary Chapel would request a deed. Chairman Cornell said an agreement between the organizations would be required to ensure continued parking availability for the Calvary Chapel.

Kristi Venditti, of Nederland, said families and seniors are losing housing, and asked how very low income seniors without a voucher will be managed. She agreed the community garden has seasonal challenges and suggested utilizing some of the area to create a play space for children. She asked whether units will be designated specifically for senior housing and if BCHA would consider adding 3-bedroom units for families. Lastly, Venditti noted the need for a crosswalk connecting to the RTD lot.

Dale Porter, of Nederland, asked how BCHA will affect North Beaver Creek, which crosses the northeast portion of the property. Coburn Architect Weber said the building was situated on the parcel with no intention to divert the creek.

**Chairman Cornell closed the Public Hearing.**

Boyd said the addition of playground can be considered. She said BCHA has not created 3 bedroom units, but they will review forthcoming market data to see about the possibility of larger units.

Commissioner Guevara expressed concerns about whether Nederland residents would be served with the long waiting list. He noted the proposed unit sizes may be adequate for seniors, but may not accommodate most mountain residents due to abundance of gear and/or mountain families. Guevara said he's not in favor of the proposed density, and requested notation of trash receptacles and storage facilities upon the site plan. Lambert noted the storage units to be provided upon the 1<sup>st</sup> floor of the building.

Vice Chairman S. Williams agreed with Commissioner Guevara about the proposed unit sizes and density. Williams inquired about the density bonus procedure. Reis said legislative action would be required to allow for a density bonus, beyond the density increase allowance currently in code.

Reis responded to questions about accommodation of utilities. She said the proposed density is not expected to burden to the utility system, however site specific engineering and water/sewer load calculations will provide further data for review, if approved to continue to Final PUD process. Reis said the property is flanked by larger utility mains, with direction to BCHA to manage use for low-flow water usage.

Vice Chair S. Williams said he likes the project, although density and parking will have to be determined.

Commissioner Seavers said affordable housing is a priority, thus he would support 36 total units. Additionally, he expressed support for the Community Garden to promote local food production.

Lambert discussed amenities regarding parking. He said solar carports are being considered which could potentially be financially feasible with the proposed density. Seavers said he appreciates consideration of alternative transit. Lambert said most BCHA residents own 1 car per household with promotion of eco-passes, and the possibility of a car-share program.

Commissioner Duggan noted Comprehensive Plan alignment with infill development, although he mentioned concerns about the proposed density impact upon neighborhood property owners. He asked about funding noting contingency of receiving tax credits.

Boyd explained the funding sources and indicated there have been initial discussions with the Citizens Housing and Planning Association (CHAPA). She noted success seen with developments including a mix of income and ages. Additionally, Boyd responded to questions about property management. She indicated onsite property management, case management for some residents, and maintenance staff to be variously present.

Chairman Cornell noted the density proposed would double the existing population on 3<sup>rd</sup> Street, as well as other areas in town. He said he could support 30 mixed-size units with the ROW vacations, so long as shared parking is ensured for the Church.

Reis said appropriate load analysis provided at Final PUD review would determine the number of utility Plant Investment Fees (PIFs) and taps. Chairman Cornell said he would want to ensure that water and wastewater plant capacity will allow future developments to be adequately served. He said he'd like to see the flood plain drainage report for the Final PUD phase.

The Commission discussed the waitlist process and whether existing residents of Nederland will be served. Boyd said the majority upon wait lists are already residents or working in the community with little importation from other areas. She noted there are legalities governing Fair Housing regulations, although she said this hasn't been an issue with other developments. She responded to an inquiry about allowance of pets. She said pets are allowed, although there is a pet size and number limit with cleanup enforced.

Chairman Cornell directed the Commission to consider the request for a through-street on Tilden Street. He expressed concerns that the 3<sup>rd</sup> Street access may be utilized, impacting those residents rather than the highway access. Vice Chairman S. Williams conversely noted the additional highway traffic may cause traffic build up or accidents.

Vice Chairman Williams asked if the building footprint would change depending on a maximum 30 versus 36 units. Coburn Architect Pete Weber said the building would be smaller with less units, but a change to the unit sizes would increase building size. Lambert said they will need market study to determine the unit size and provide walk-score, which is anticipated in March. Boyd indicated BCHA will anticipate moving toward Final PUD in March.

**Motion to extend meeting for 30 minutes was made by Chairman Cornell, seconded by Commissioner Guevara, with all in favor.**

Chairman Cornell expressed uncertainty about adequate provision of onsite parking, and said BCHA would need to ensure there is a parking agreement with Calvary Chapel with no overflow parking on Johnson Street during special events. He said the neighbors on the west side should be approached about the Tilden Street vacation.

Doug Gibney, pastor of Calvary Church, inquired where guests of residents would park. Lambert said the majority parking would be within the site.

Commissioner Duggan asked if units are to remain as rentals. Boyd affirmed the units will be rentals with a 40-year affordability covenant established. She further indicated that another site is being considered for for-sale units.

Reis explained the options before the Commission. She said with the Density Increase allowance the property can contain 30 units, although request for a density bonus to contain 36 units would require legislative action by the Board of Trustees to allow such a thing.

**Motion to recommend approval with aforementioned conditions with support for 30 units to move forward to Final PUD plan was made by Chairman Cornell, seconded by Vice Chairman Williams, with 3 in favor and 2 against. (Commissioners whom voted in opposition indicated support for 36 total units.)**

Reis said BCHA would like to include cost data to understand the difference in costs between 30 or 36 units in order to maintain affordability. Commissioner Duggan said he'd like to hear neighbor input regarding whether they support 30 or 36 units.

#### **H. OTHER BUSINESS**

Reis said the (long-term) Rental Licensing program will be going before the Board of Trustees for final consideration on February 7.

Trustee Miller said the Board of Trustees heard a request on January 10 by the property owner of the Caribou Ridge subdivision to extend the Planned Unit Development (PUD) Agreement by one year in order to complete improvements and continue to build homes. She said the letter of request discussed a potential transfer of ownership and future request for amendment of the existing (expired) PUD. Miller said the Board decided to allow a one year extension with need for PUD amendment by June 30, or the PUD will be considered expired. She indicated Board supported amendment with consideration of affordable housing and increased density.

#### **I. ADJOURNMENT**

**Motion to adjourn was made by Commissioner Seavers, seconded by Vice Chairman S. Williams, with all in favor at 10:20 pm.**

**Approved by the Planning Commission,**

  
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Roger Cornell, Chairman, Planning Commission

ATTEST:

  
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Cynthia Bakke, Planning and Building Technician