



# TOWN OF NEDERLAND PLANNING COMMISSION REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER  
750 Hwy 72 Nederland, CO 80466

October 28, 2015 - 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 and Commissioners Timmy Duggan, Jesse Seavers, Greg Guevara, and Wendy Williams.

**Absent:** Vice Chairman Steven Williams, Trustee Topher Donahue, and Commissioner Stephanie Herring.

**Also in attendance:** Town Administrator Alisha Reis, Deputy Clerk Cynthia Bakke, and Town Clerk LauraJane Baur.

### C. APPROVAL OF MINUTES FROM September 23, 2015

Motion to approve the minutes made by Commissioner Duggan, seconded by Commissioner Guevara, with 4 in favor, and abstention from Chairman Cornell who was absent from the September meeting.

### D. PUBLIC COMMENT

There was no public comment on non-agenda items.

### E. INFORMATION ITEMS

#### 1. Community Forum on the Definition of Affordable Housing in Nederland

Reis introduced the item and referenced materials in the packet for consideration to include a draft agenda for a public forum on Housing on December 3 at the Community Center theater from 7:30-9:30 pm, in conjunction with the Housing Sub-Committee of the Peak to Peak Housing and Human Services Task Force.

Reis indicated the EPA Building Blocks final report encouragement to define affordable housing for Nederland as a fundamental next step. She noted regional income and population demographics derived from the 2014 Housing Needs Assessment, the STAR initiative regarding the cost of commuting, and Boulder County Housing Stability Fact

Sheet with county-wide statistics, as well as a link for the Housing Action Plan in the packet. She said the forum will include review formulas for government programs and the effect upon Nederland's policies for establishment of affordable housing.

## **F. ACTION ITEMS**

### **1. Consideration of a Special Review Use (SRU) Home Occupation for Marijuana Cultivation by Ashley Wright at 78 Barker Road.**

Town Administrator Alisha Reis excused herself from the room, as to remove any appearance of impropriety, in the land use process, given that she is the nearest neighbor to the residence of the proposed cultivation. Reis is also the Town's appointed Zoning Administrator and would ordinarily present the case on behalf of the Town. Town Clerk LauraJane Baur assisted Bakke with note-taking for this portion of the meeting to allow Deputy Clerk Cynthia Bakke to present on Town Administrator's behalf.

Chairman Cornell introduced the item. He explained that Wright's proposal is the first application for residential cultivation, for which the Commission intends to give thorough deliberation, guided by the Town Attorney's legal counsel.

Bakke provided a summary with code analysis and internal review considerations. She cited the allowance for residential cultivation via Special Review Use within NMC Sec. 16-32(c) footnote 9, and addressed the apparent conflict with NMC Sec. 16-76(k) Home Occupation, noting that the more recent legislation (Sec. 16-32 Use Group Tables) does supersede in this case. Bakke said Boulder County Septic Division had no issues, provided discharge doesn't enter the septic system. Bakke also noted that Fire Department Chief Rick Dirr has indicated issues with driveway access, residential fire flow, and fire department personnel safety in the event of a fire.

Applicant Ashley Wright cited her existing caregiver operation with no issues presented during the town's inspection. She addressed concerns about property values, and potential home damage, noting her desire to purchase the property. As a mother of a young child, she said safety is her prime concern. She stated as the sole employee there will be no increased traffic, with all sales conducted offsite, and licensure to ensure product tracking from seed to sale as per State requirements.

Wright referenced the #NedZero promotion of cottage business, to achieve economic growth without use of limited commercial space, and town revenue from licensing fees. Wright stated that the family's residence occupies 75% of the home, with the proposed cultivation less than the allotted home occupation floor space, and onsite security cameras to deter crime. Wright stated that utility usage is no higher than other types of commercial businesses, and has been certified by a licensed electrician for safety. She said that increased filtration would reduce odor, and she will ensure noise mitigation.

**Chairman Cornell opened the Public Comment portion of the meeting.**

Helaine Mann, of Nederland, was given additional time by Kathleen Pope. She stated

her opposition to the allowance within neighborhoods, and cited concerns about further reduction of housing stock, large carbon footprint, and the effect upon the town's image, diversity and children. She asked for repeal of Ordinance 720.

Steve Jordan, of Nederland, asked how the applicant proposed to bring cultivation supplies and products to and from the house without increased traffic.

Theresa Jordan, of Nederland, listed concerns about increased traffic, safety of neighborhood children, odor, noise, and crime, along with impact upon housing that will affect the nature of the neighborhood.

Lyn James, of Nederland, said she would like to know about the end point for wastewater discharge. She mentioned an unsolved daytime Nederland bank robbery despite on-premise security cameras; and laws limiting cultivation operations in other towns.

Lawrence Pope, of Nederland, said he's opposed to cultivation in residential areas, and noted a lack of town resources for enforcement.

Kelly Hess, of Nederland, said she is against commercially oriented cultivation in the residential districts that could affect the neighborhood's sense of community and relationships. She said others to follow may not be as considerate as Wright.

Bill Renno, of Nederland, said that marijuana cultivation is not a cottage industry, which is normally low impact and without stringent laws for security, inventory control, and building requirements. He said enforcement agencies don't have sufficient resources to ensure compliance. Renno listed concerns about home damage with subsequent remediation expenses, high resource consumption, and waste discharge.

Kristin Kinney, of Nederland, would support the applicant in commercial zones only, as marijuana is still federally illegal. She said issues cannot be predicted with guarantee against multiple adverse effects. Kinney noted significant town investment from her building permitting fees and taxes, with the request to protect the neighborhood and property owner investments.

Barbara Hardt, of the greater Nederland area, said she supported the Commission's recommendation to prohibit residential cultivation in 2014. She said that approval will set a bad precedent for Nederland, and asked for denial of the application.

Kat Barr, of Nederland, said she opposes cultivation in any residential neighborhood, but not in commercial areas. She noted significant neighbor opposition which prompted her to attend the meeting, and has heard no support for the application.

Alex Olivas, of Nederland, said that proliferation will be difficult to predict in residential districts, whereas commercial cultivation has significant investment potential.

Ann Keane, of Nederland, asked the Commission to deny the application as it has significant industrial-related issues that will negatively affect the town's reputation.

Julie Gustafson, of Nederland, said she echoes the concerns of fellow neighbors. She noted the definition of residential zoning as the most restrictive allowing no employees, or impact on surrounding areas, and feels a caregiver cultivation meets the definition of a public nuisance. Gustafson said she'll attend the Board of Trustees hearing on this matter.

Liz Ivey, of the greater Nederland area, referenced the housing crisis and said this will be exacerbated by conversion for residential cultivation, reducing diversity with corollary impact to educational facilities and staff, as family housing has declined.

Kristy Venditti, of Nederland, spoke of an observed declined enrollment due to lack of affordable housing intensified by cultivation. She said she is not opposed to cultivation in commercial districts, with residences used solely for housing.

Stephanie Miller, of Nederland, thanked Wright for a thorough application and the intention to minimize impacts, but is concerned about the potentially negative consequences. She said Town staff analysis indicated conflict with adjacent neighborhood uses. She provided the Neighborhood Commercial district definition which prohibits uses with significant incompatibility, whereas Wright's application is within a strictly residential zone.

Stephen LeFaiver, of Nederland, spoke on behalf of Teens, Inc. He said he participated in the EPA workshop to discuss housing challenges and availability for workforce housing along with Principle Miller and Principle Fels, with recognized reduction from existing cultivation operations. He noted high risk factors for Nederland youth compared to other areas, with the town's perceived culture further exacerbating use rates.

Steven Karowe, of Nederland, supported the comment by Stephen LeFaiver, noting the limited availability on housing stock exacerbating residential market affordability. He asked for reconsideration of the allowance.

Jessica Pitzer, of Nederland, said that no study has been done regarding reduced property values for commercial-level cultivation. She noted the current frequency of power outages and inquired about utility load, and if Xcel has been contacted for comment.

Henry Wheeler, of Nederland, noted a lack of zoning adherence in the 1990's when he was a Trustee creating a housing shortage. He asked why people would pay for higher commercial business fees if able to do the business in their homes without restrictions.

Joseph Marriott, of Nederland, said he is fully against marijuana and noted how towns consumed by gambling operations have changed the community. He said this allowance goes against goals of a sustainable Nederland.

**Chairman Cornell permitted 1 minute of public comment from those who had not signed up to speak.**

Panarella Marriot, of Nederland, said a Home Owners Association (HOA) can protect property values and would object to this type of operation, as she hopes that the Planning Commission and Board of Trustees will choose to do.

Cheryl Fanelli, of Nederland, said she is pro-cannabis, noting that alcohol and heroin are more of a concern. She said she believes that this allowance will raise property values greatly reducing affordable housing and is inappropriate for neighborhoods.

Suzanne Kaufman, of Nederland, asked the Commission to deny the application.

Dave Gustafson, of Nederland, said that the residents without families will be the only ones able to remain if this SRU is accepted, and that he supports limiting cultivation to commercial areas.

**Chairman Cornell closed the public hearing portion of the meeting.** He reiterated clarification about the code inconsistency between Sec. 16-32(c) footnote 9 that supersedes Sec. 16-76 Home Occupations as the more recent legislation governing the allowance.

Applicant Ashley Wright reiterated her role as the sole proprietor, with no excessive traffic, and that she will continue discussions with Boulder County regarding expectations to reduce impact upon the septic system. She stated that, with approval, she would establish a fire exit modification to improve safety for Fire Department personnel.

Commissioner Seavers asked if the applicant had done outreach to neighbors, and if she would consider the addition of food production and renewable energy resources.

Commissioner Williams asked the applicant how current operations would change, from caregiver to commercial setup, and how her proposal is compatible with adjacent land uses. Wright responded that there are no changes aside from those required by State law and that Barker Road is residential, but near to commercial properties.

Commissioner Duggan inquired about Wright's existing utility usage levels.

Chairman Cornell asked why Wright desires to change the existing caregiver cultivation to a commercially oriented business at her residence. Wright said she is concerned with gray areas within the caregiver allowances, and endeavors to take the next progression with proper regulation and documentation.

Chairman Cornell directed the Commission to provide final feedback prior to taking the vote. Commission discussion lauded the applicant's professionalism, but underscored concerns about general incompatibility with surrounding land uses, use of prime real estate for an impact-heavy business, and outstanding concerns such as the effect upon the septic system and Fire Department service.

**Motion to recommend denial of the Special Review Use application for residential cultivation at 78 Barker due to an inability to meet required**

**criteria of NMC Sec.16-55 Special Review Use was made by Chairman Cornell, seconded by Commissioner Williams, with all in favor.**

The application will go before the Board of Trustees on December 1.

**G. DISCUSSION ITEMS**

Bakke provided an update on upcoming planning opportunities, to include a multi-Advisory Board planning webinar on December 2, the Community Forum on Housing on December 3, and a multi-town Planning 101 presentation by DOLA on January 13.

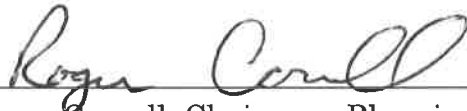
**H. OTHER BUSINESS**

There was no other business.

**I. ADJOURNMENT**

**Motion to adjourn was made by Chairman Cornell, seconded by Commissioner Duggan, with all in favor. Meeting adjourned at 9:22 pm.**

Approved by the Planning Commission,

  
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Roger Cornell, Chairman, Planning Commission

ATTEST:

  
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Cynthia Bakke, Deputy Clerk