



**TOWN OF NEDERLAND
PLANNING COMMISSION
REGULAR BUSINESS MEETING**

**NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466**

April 22, 2015, 7:00 P.M.

MINUTES

A. CALL TO ORDER

Chairman Cornell called the meeting to order at 7:07 pm.

B. ROLL CALL

Present: Chairman Roger Cornell, Vice Chairman Steven Williams, and Commissioners Greg Guevara and Betty Porter.

Absent: Commissioners Timmy Duggan and Jesse Seavers. Trustee Topher Donahue was absent for quasi-judicial considerations, returning for legislative items.

Also Present: Town Administrator Alisha Reis, Deputy Clerk Cynthia Bakke.

C. APPROVAL OF MINUTES FROM March 25, 2015

Motion to approve the March minutes made by Commissioner Porter, seconded by Vice Chairman Williams, with 3 in favor, abstention from Commissioner Guevara who was absent from the meeting.

D. PUBLIC COMMENT

Ronald Mitchell expressed his concern about a public member's comments at the Joint Work Session on 4.14.2015. Chairman Cornell noted that further consideration of rental licensing is forthcoming in Discussion items.

E. INFORMATION ITEMS

There were no information items.

F. ACTION ITEMS

1. Consideration of a Special Review Use Amendment by Ronald Mitchell at 8 W. Boulder Street. (Lots 9 & 10 Block 2 NED ID 23185 Combined Here Per Owner 05/29/92)

Reis introduced the item, noting that an inn closely meets the definition of hotels, as referenced in the AIM analysis within the packet.

Ronald Mitchell and daughter Annette Mitchell of Nederland, presented their item. Ronald Mitchell gave a brief history of youth hostels, noting the wane in popularity in the wake of Bed and Breakfast (B&B's) establishments, and newer approaches such as Air B&B's and VRBO's. Mitchell provided history as to how he acquired the hostel lots, and the ordeal of moving the structure from Boulder. Mitchell introduced Andi LaMartina and Benjamin Sproul who will serve as the Hop Inn managers. Mitchell explained the technical difference between hostels, which rent by the bed, versus hotels which rent by the room.

Chairman Cornell opened the Public Hearing portion of the meeting.

Lexie Armitage of the greater Nederland area says she supports the project as she is often asked for area lodging accommodations.

Reis added Nederland Police Department recommendations that the operation is conducted under Colorado Innkeeper Rules, with posted hours and Inn rules, as well as allowing access to the Police Department in any specified public space. These conditions will be added to the SRU Agreement draft prior to BOT consideration.

The Commissioners requested more information regarding length of stays beyond 30 days and how this will be monitored. Reis indicated that enforcement would be complaint-driven. She clarified the sales tax requirement in stays under 30 days and definition of rooming units, noting that Sec. 16-6 Definitions will be part of the considerations in forthcoming policy review. She indicated her understanding that the Hop Inn business model will shift toward a customary use for those guests staying under 30 days, although stays beyond 30 days would not an issue.

Commissioner Guevara mentioned sign code conformance as a requirement for all associated business signs.

Chairman Cornell inquired as to the number of bedrooms to be in use. Ronald Mitchell responded that there are a total of 7 bedrooms, including the cottage. He requested the allowance for the existing cottage guest to remain, with intended conversion of this space upon the existing tenant's departure. Reis suggested inclusion of a condition to note Inn model is phased in once the longer-term cottage tenant exits.

Vice Chairman Williams inquired as to maximum occupancy. Ronald Mitchell responded that this is a total of 14 occupants. Chairman Cornell asked if there is adequate off-street parking capacity to accommodate occupancy, which includes the Alpaca Store and More. Ron Mitchell stated that there is a mutual easement between Blue Owl books as their waterline crosses his parcel, with access to these parking spaces via ingress/egress behind Blue Owl books.

Vice Chairman Williams requested clarification regarding trash storage and parking access to the south, as the parking spaces appear to obstruct access for trash pick-up. Ronald Mitchell stated that access is via the rear door for trash company pick up, and that guests are informed about the need to move vehicles for trash pickup on Monday.

The Commission jointly determined that unless code enforcement issues arise, no annual review of the Special Review Use is necessary. Reis noted that the SRU Agreement includes a recall review clause should deviation from permitted use occur.

Reis stated that sign compliance, Colorado Innkeeper rules and Police Department request for identified public space, as well as phased occupancy of cottage will be included in the SRU Agreement.

Motion to recommend approval of the SRU Amendment for Ron Mitchell at 8 W Boulder Street made by Vice Chairman Williams, seconded by Commissioner Porter, with 4 in favor. Recommendation of Approval will be forwarded to the Board of Trustees in June.

2. Consideration of a Preliminary Review Application for a Planned Unit Development at 100 E. First Street, (Tract 845 Less A-B-C NED 13-1S-73 Book 624 Page 561 BCR Total 1.2 Acres M/L)

Applicant Lexie Armitage spoke about her project. She requested consideration of her proposal to trade the value of utility Plant Investment Fees (PIFs) and tap fees for open space donation, as the determination is crucial to overall project affordability. She said she wants to make affordable housing, with preservation of half of the parcel for open space. She said that the cost of providing individual residential taps to the 8 cabins and main lodge would exceed \$200,000, and she would trade the equivalent of the land's sale price.

Reis indicated that Town staff did not receive the engineering review of utility capacity until April 16, thus there was not adequate time for staff review and analysis within the packet regarding the viability of a trade. Reis clarified that the utility fees would total \$223,065, noting that subdivisions require a percentage of public lands donation (12% of the total property), approximately 6,000 s.f. for this parcel, with Armitage proposing to trade 26,000 s.f. for public dedication.

Chairman Cornell said he would consider the request, with a properly negotiated utility plan and at least one subsidized housing unit to ensure the affordable housing aspect. He added that the Town would only truly require an easement across the parcel for a trail as public dedication.

Commission discussion brought up the challenge of financing for the Wastewater Treatment Plant (WWTP) without savings at hand derived from the utility PIFs, and would affect future infrastructure upgrades. Armitage stated that she would withdraw the project if the trade is not approved.

Vice Chairman Williams noted the applicant's timeline would deter assistance from Boulder County Housing Authority to help defray the cost of utility fees. Armitage said that establishing market value with affordable housing unit can be an inclusion of the agreement that the unit price would not increase more than a certain percentage over

specified period.

Vice Chairman Williams said he is in favor of the project generally, but wary of the example this may set regarding request of utility fee waiver. Armitage noted that the project at 100 E. 1st Street would offer open space in trade as opposed to the Town solely absorbing the fees.

Commissioner Guevara said he'd support further conversations regarding trade considerations, although waiving the amount proposed doesn't seem feasible. Reis said that Armitage would have to create an onsite utility system.

Commissioner Porter said she is unsure if the project moves forward if it would indeed be affordable workforce housing or vacation homes. Reis said that these concerns can be included within the PUD Agreement. Porter asked Reis for clarification regarding how the affordable housing considerations (10% affordability range) would be defined in case the home is resold in a few years.

Chairman Cornell opened the Public Hearing portion of the meeting.

Donna Monacella of Nederland, said that she opposes the project, noting the shortage of parking along 1st Street. She said that the overall look would change along 1st Street, with increased traffic congestion as well as snow plowing considerations. All of the homes along the street are single-family homes and the addition of 8 homes is not consistent with the neighborhood, she said.

Chairman Cornell closed the Public Hearing portion of the meeting.

Commissioner Guevara asked if the Commission could table the overall consideration of the project to give specific feedback regarding the PIF/tap for open space trade. Reis clarified that this will allow the applicant to decide whether the project should continue, and noted that land use due process requires that the final PUD is reviewed before the Board of Trustees.

Commission discussion determined that the open space trade would not be viable for the Town. Chairman Cornell said they can continue to review the project, however Armitage declined, thanking the Commission for their time and consideration. She said she would withdraw the project from further consideration.

Reis said that staff would recommend that the Commission look at ideas for policy related to subsidizing affordable housing, as this will be further discussed in 2015.

Trustee Donahue was present the legislation portion of the meeting.

3. Zoning Map Amendment re: Public (P) Zone

Reis introduced the item. She noted that the ordinance recognizes the previous update in 2013, but the Public zone portion was held off until now, despite regulations being included in code from the 2008 ordinance creating the zone. The Public zone is all

public entity-owned land within the town, displayed on a map with a local GIS contractor and reviewed by staff. She referenced the Public zoning district regulations within the use group chart, noting prohibitions such as clubs, offices and campgrounds. She said that the Commission may want to reconsider allowances for campgrounds as a use by right instead of special review, although this can be done at a later time. Chairman Cornell noted that any use that would be allowed by right is for public review.

Reis noted a prohibited use for offices, however there is allowance for Town offices via special review, thus this may end up being revised due to incongruence. Reis clarified that municipally owned offices would need to be approved via special review; however any Town-owned property development would require public hearing by other code provisions.

There was no public comment presented.

The Commission determined that they would vote to recommend approval of the zoning map itself, and consider uses at a later time. Commissioner Guevara noticed that Wolftongue Court is spelled incorrectly on the map.

Motion to approve recommending approval of the ordinance for zoning map amendment with one change of spelling noted for Wolftongue Court made by Commissioner Porter, seconded by Commissioner Guevara, with all in favor.

G. DISCUSSION ITEM

1. Rental Housing Licensing code and program

Chairman Cornell spoke briefly about this item's discussion at the joint work session with the Board of Trustees and BZA on April 14. He said the discussion is ongoing with recommendations to be forwarded to staff.

Reis noted that some of the issues are zoning related, which will likely be included for EPA technical review assistance. She asked the Commission to consider how to address issues for property owners and tenants. She said that the targeted checklist of important considerations would be included within rental inspections to ensure the health of the rental units.

Chairman Cornell specified that licensing pertains more to rental properties than renting of rooming units within a single family residence. Reis referenced NMC Sec.16-82, which defines the rental of rooming units and is also defined separately in Sec. 16-6 Definitions. Reis added that discussion during the joint session did not provide consensus regarding the process for regulation.

Trustee Donahue asked Reis how common rental licensing is in other municipalities. Reis indicated that it is much more common in areas where there are high-volume seasonally transient populations, as seen in ski towns and those with universities.

Commissioner Porter referenced Ronald Mitchell's remarks about property owners

suffering damage from tenants. Mitchell indicated that rules differ if a lease has been signed, although he has experienced tenants breaking lease conditions. He mentioned a recent tenant issue involving the process of eviction for a tenant with eviction history.

Mitchell asked if Town staff inquire, when receiving complaints, whether tenants have expressed issues to landlord. He said he has seen past issues with rental licensing inspections in Boulder and suggested a broader discussion. He asked for the Commission to include tenant responsibility within their consideration, which Boulder eventually recognized. He offered to take part in future discussion with other property owners to create sensible licensing regulations.

Chairman Cornell said that the rental licensing code would ideally create a mutual agreement for landlord and tenant ensuring life safety, parking and mitigation of environmental issues including common sense safety elements such as safe ingress/egress, smoke and CO₂ detectors, and proper electrical wiring.

Reis clarified that the focus is to be on life safety issues, not a requirement for the property as a whole to be required to meet all building code upgrades.

Mitchell said that he agrees with improvements to overall housing safety, though has concerns about 'mission creep' adding further provisions. Reis said that they are able to include inspection checklist conditions via resolution to be reviewed annually as the Board of Trustee's reviews the fee schedule to ensure that nothing is added without review.

Trustee Donahue asked if regulation via licensing is a proven model. He referenced the SRU recreational marijuana cultivation allowance and asked if any applications have come forward. Reis acknowledged that Town staff has only received inquiries, although there have been voluntary compliance inspections by several residents regarding Amendment 64 and medical marijuana cultivation operations. Trustee Donahue added that rental licensing should include a benefit to property owners; otherwise, there may be little support.

Reis noted that licensing can be a method for contributing to neighborhood stability. Commissioner Guevara noted the general imbalance between demand and availability with little burden on landlords to make even basic improvements, though he's also not convinced that rental licensing is the solution. He said he foresees the burden of ongoing enforcement.

Trustee Donahue pointed out that higher living density is common in many areas of the world, noting that one singular person can create as much damage without the excuse of density. He said he isn't sure legislating how many people can reside in a house is effective. Reis suggested the Commission review NMC Sec. 16-6 Definitions for "family", which speaks to the number of unrelated adults allowed to reside in a single-family residence to consider neighborhood impact, with many impacts already addressed within NMC Sec 7-31 Nuisances.

Commissioner Guevara suggested incentivizing associated fees for property owners by advertising with rental licensing as proof of a higher quality standard.

Reis asked if Commission would desire participation in a wider workshop for proactive solutions as opposed to the complaint-driven focus. She said that Town staff hears more from tenants renting from out-of-state property owners. Reis said they wanted to target inspections to be Nederland-specific for basic habitability and energy use, with some considerations that may merit a broader community discussion.

Commissioner Porter said that there is at least a minimum responsibility regarding public safety and community health to consider. Chairman Cornell added that life safety issues include owner-occupied homes as well as income properties.

Trustee Donahue asked if issues could be addressed by code enforcement. Reis noted that some issues could, such as electrical wiring safety issues, as evidenced in marijuana cultivation operations she has witnessed within the town. She suggested review of the Home Occupation code with areas to be bolstered or addressed via code enforcement, which has tackled a number of issues already. Reis remarked that the complexity of the discussion has illustrated perhaps why the code, though adopted in 1996, was never fully implemented. Vice Chairman Williams said that enforcement could be the focus of funding, if the rental licensing program is without financial support.

Mitchell said he has consulted on land use development, mentioning flexibility he has seen with building heights and lot size requirements to achieve higher density.

Reis noted sub-zoning possibilities within neighborhoods that could be utilized in recognition of shifting demographics, while still considering the character of the area.

H. OTHER BUSINESS

There was no other business.

I. ADJOURNMENT

Motion to adjourn was made by Commissioner Porter, seconded by Commissioner Guevara, with all in favor. Meeting adjourned at 9:38 pm.

Approved by the Planning Commission,



Roger Cornell, Chairman, Planning Commission



Cynthia Bakke, Deputy Town Clerk

ATTEST: