



Nederland Planning Commission

MINUTES

Wednesday, April 23, 2014 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1. CALL TO ORDER

Vice Chairman Cornell called the meeting to order at 7:05 p.m.

2. ROLL CALL

Present: Vice Chairman Roger Cornell and Commissioners Lisa Mayhew, Mikki Osterloo, Betty Porter, and Steve Williams, Trustee Liaison Topher Donahue

Staff present: Town Administrator Alisha Reis, Deputy Clerk Cynthia Bakke

3. APPROVAL OF MINUTES from March 26, 2014

A motion to approve the minutes as written was made by Commissioner Mayhew, seconded by Commissioner Osterloo, 4 in Favor, with abstention by Commissioner Porter, who was absent from the March meeting, and Trustee-Liaison Donahue who was appointed as of April 2014.

4. PUBLIC COMMENT

There was no public comment not pertaining to the Agenda.

5. INFORMATION ITEMS

Reis reported that there will be a continuance of the Public Hearing for the Evans' Aspen Trails Annexation at the May 6 Board of Trustees meeting. She said that Boulder County's review is still pending, as the number of housing units are to be dialed in, along with the forthcoming housing needs assessment, anticipated in early July.

6. ACTION ITEMS

1. **Election of Officers**

Vice Chairman Cornell spoke of the current vacancy and two terms up for reappointment in June, including his position. He stated that he will be reappointed per nomination by Mayor Gierlach. Reis said that there is no requirement within the Planning Commission's Bylaws or Charter requiring appointment of the Chairperson at this time. Cornell suggested tabling the appointment of officers until June.

2. Consideration of a Final Planned Unit Development Application by Sally Grahn at 180 East Third Street, 181 East Second Street, 187 East Second Street, and 260 East Street.

As this application will come before the Board of Trustees on May 6, BOT Liaison Donahue recused himself to preserve his ability to hear the case at the BOT level.

Applicant Sally Grahn, said that since the Preliminary PUD application, the Commission's recommendations of fifteen-foot street setbacks, as well as a twenty-year vestment period. These changes have been included within the Final PUD Agreement.

Reis said that the draft Agreement has been through legal, staff and applicant review. She indicated that these conditions will be contained within the PUD Agreement, which discusses utilities and specifies the phasing period, allowing for the retention of aspects of the current development. Reis referred to the presented Existing Conditions map with several mobile homes, a few single family homes and the apartment building. The Final Plat map and Final PUD Agreement, once approved at the BOT, will be recorded together with the Boulder County Clerk.

Vice Chairman Cornell opened the meeting to Public Comment.

No Public Comment was registered, thus the Public Hearing portion was closed.

Cornell added that the increase in density, on Lots 1-4, is allowable per NMC Sec. 16-88. He said he wanted to stem any future density disputes as to why duplexes were allowable in this development, although not in other areas.

Discussion was conducted amongst the Commission about the project as a whole. Commissioner Porter said she approved of the project, which is in keeping with the Comprehensive Plan guiding future development. Osterloo concurred.

Williams inquired if staff review presented any outstanding concerns. The locations of water and sewer taps upon 2nd Street lots intentionally coincided with the NedPeds project per Reis, a prime consideration brought forth in the Utilities staff review.

Cornell inquired as to the consideration of the Flood Plain with respect to the development upon the parcels. Reis said that as a corner of Lot 9 could be affected, the applicant enlarged this lot's building envelope to create a buffer.

Porter made a motion to recommend approval of the Final Planned Unit Development (including both the Plat and PUD Agreement), Williams seconded, with all in favor.

Trustee Liaison Donahue returned after the Grahn PUD hearing concluded.

G. DISCUSSION ITEMS

1. Sustainability Action Plan (SAP) Matrix Presentation

Conor Merrigan presented the SAP matrix. He said the draft SAP is and will be continually updated as a living document, to be managed by the town staff. The Sustainability Advisory Board (SAB) will serve as de facto 'champions', however, Merrigan wanted to note that it is not intended as a SAB manifesto. He said that ongoing updates, with re-examination of goal setting, will help all boards, and to keep the plan viable.

Merrigan said that a rough definition of sustainability has been submitted by the Sustainability Advisory Board (SAB), though it will be defined by actions that the Town takes, to be decided by all the stakeholders involved. He emphasized the intention is to encompass the various community viewpoints.

In discussing the matrix of actions, he noted the breakdown of lead and support organizations, with elements ranging from high priority items with a key focus, those existent or already having commitment, to low priority items awaiting decision from stakeholders. This can then serve as a baseline for the following year's summary on the progress of sustainability goals.

Merrigan asked to go through the matrix to determine if the current priority settings are relevant. Cornell noted that many items are either underway or upcoming, dovetailing with the Comprehensive Plan implementation.

Williams suggested the need to schedule items to ensure discussion and/or implementation.

Merrigan referenced 'Economy of Jobs', as one of the few high priority items, along with zoning updates. Cornell inquired how they can address this, aside from encouraging zone-appropriate higher density, and mixed-use live/work development. Merrigan responded that during the yearlong process, the Commissioners' can indicate discussion has been conducted.

Donahue asked if zoning requirements present barriers to achieve the goal via higher density. Reis responded that all mixed-uses require approval under a Special Review Use (SRU) permit, with associated fees and process time-frame. Deciding on the definition of "multi-family residence" is yet another aspect to review, she said.

Porter noted that there was a survey of historical properties within the town conducted in 1999, which could be useful for indicating historical sites.

Merrigan asked if adopting building codes should have an elevated priority. Cornell said he would agree with a medium priority, pending information received from the Mayor's Task Force on Building Code Updates. Merrigan invited the Commissioners' to forward comments to him about any

missing, yet relevant aspects, or anything that needs to be shifted in priority or champion. Cornell suggested they begin the discussion about extending the wastewater utilities into the larger subdivisions, such as Big Springs.

The group further discussed the overall subject of sustainability within the community.

Donahue inquired about the absence of energy efficiency and localized energy production within the matrix. Merrigan said that there is a section devoted within the Sustainability Action Plan, to be included within the matrix.

Merrigan acknowledged that the biggest source of emissions comes from energy usage, and though Nederland may not be able to achieve energy independence, it is important to consider ways to improve the existing system.

He noted that the Xcel Energy lease expires in 10 years, with time to discuss how to negotiate for incentives and/or increase localized energy production, distribution, and energy efficiency, where able. Cornell added that this also is in line with the Comprehensive Plan to research renewables and solar garden sites.

Osterloo asked if there was anything addressing water being wasted, in general, as well as in planning for new development. Merrigan said that there could be more about encouraging reduced consumption. Osterloo said that water rights are important to consider with competing activities like hydraulic-fracturing (fracking) and agricultural demands upon headwaters above town.

Reis acknowledged the relevance of this topic, and said that the town saved several hundred thousand gallons of water in 2013 with repair of inflow and infiltration issues, with flood-damage repairs also to help reduce consumption.

Mayhew mentioned that despite progress made, some residents need to leave the tap dripping all winter long to prevent freezing pipes. She inquired if the system can be improved to remedy these issues. Reis responded that there are ongoing repairs to reduce system "bleeders".

2. Discussion of Recreational Marijuana Zoning Issues

Reis introduced the item for discussion noting that marijuana cultivation presents multiple concerns about energy and water usage, as well as wastewater quality. She said that the forthcoming building code recommendations provided from the Mayor's Task Force on Building Code Updates will assist the Planning Commission in establishing appropriate parameters.

Reis referred to packet materials, including the Marijuana FAQs primer,

which outlines aspects such as licensing, zoning, and law enforcement, etc. Commissioners' will be utilizing the section pertaining to Marijuana Retailers and Home Growers which indicates where retail establishments, testing, product-manufacturing and cultivation facilities are allowed, she said.

She said the Board of Trustees has asked the Commission to review requirements within the SRU code and Home Occupation business license process, and forward any recommendations.

The Commission wanted to review the floor area allowable for use within a Home Occupation (50%) in general, and as it pertains to cultivation. Reis also said that the current section on Home Occupations includes a provision that prohibits any land use that requires an SRU permit. She asked if the Commission would like to retain or readdress.

Reis said that an unintended consequence the Town has seen of use-by-right allowance for marijuana cultivation in the General Commercial (GC) and Industrial (I) zones, is that cultivators are picking up any remaining vacant GC lots, and that cultivators do not generally contribute revenue to the Town in the form of sales tax.

She noted that the Town staff has been getting copious requests about the few lots in these specific zones, to use solely for cultivation facilities, but not for revenue-generating retail marijuana stores. Applicant interest has declined when the SRU process is explained for available Neighborhood Commercial lots.

This issue also dovetails with the shortage of rental housing, as cultivation operations are currently using residential spaces, cutting rental inventory.

Further impacts discussed included demands on energy and water resources.

Reis said that no retail licenses can be issued until October; any interested applicants must file letters of intent with the State Marijuana Enforcement Division starting July 1 for October licensing.

Medical marijuana cultivation businesses are restricted in residential areas by town zoning, though there is an allowance for caregiver cultivation and personal use cultivation under the retail marijuana code.

Williams inquired why cultivation centers are not taxed. Reis explained that any sales tax and payment is done at the site of sale, thus if Nederland-grown cannabis is transported to Boulder or Denver, the sales tax follows.

Donahue inquired what the advantage is to Nederland. Reis said that an occupational tax could be voted upon, but the last opportunity to get this on the ballot for this year would be August.

She also noted that a well-managed home occupation could provide an economic benefit if offering a high-end product that is sold within Nederland. This may also appeal to some unlicensed growers who would then improve safety within these operations, due to business licensure requirements.

The Board of Trustees had elected not to add further taxation, as had been done in other cities, said Reis, preferring to wait until an annual review.

Porter asked if a tax can still be added, to which Reis affirmed, as opposed to fees which must be used specifically for the intended purpose. The fee structure for Special Review Use is presently \$500, with a \$1,000 deposit in escrow for legal and/or engineering costs. Donahue suggested hiring an employee for enforcement issues.

Osterloo inquired if a limit can be established within the town, as was done with medical marijuana dispensary licenses. The Commission also discussed putting a cap on Home Occupation allowances.

Sally Grahn, of Nederland, said that the Neighborhood Commercial (NC) district was intended for use as homes with commercial, low-traffic secondary uses. She said that the character of the neighborhood would change if cultivation facilities take these lots. She mentioned a possible similarity with Central City where gambling was intended as a small area, but took over the town.

Commissioners discussed limiting cultivation to Industrial (I) zones, due to the high energy usage, the associated chemicals and odor complaints.

Donahue asked if there was a way to preserve the town's character and address energy usage. Reis suggested that Commissioners' review the SRU code and Home Occupation allowances to make any recommendations. She inquired if the SRU allowances should be reviewed in general which echoed Commissioner Mayhew's comment that some allowances (e.g. private horse stables) do not merit similar review costs as compared to other special review uses.

Donahue inquired how enforcement will be conducted. Reis reported that a code enforcement official from SAFEbuilt will be looking into complaints, helping to relieve strain upon Town staff and local law enforcement.

Reis noted that a discussion of rental considerations is yet another option to establish guidelines, so as not to inadvertently drive operations into the residential zones through limiting business allowances. She said that the 2012 update to the International Building Code (IBC) is being studied for possible adoption in 2015.

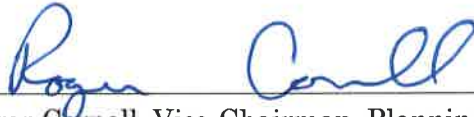
Reis concurred with Commissioner Donahue that a joint BOT and Planning Commission Work Session be set soon to discuss zoning issues, with re-visitation after the Mayor's Task Force on Building concludes.

H. OTHER BUSINESS

I. ADJOURNMENT

A motion to adjourn was made by Commissioner Porter, seconded by Commissioner Osterloo, and was unanimously approved at 9:08 p.m.

Approved by the Planning Commission,



Roger Cornell, Vice-Chairman, Planning Commission

ATTEST:



Cynthia Bakke, Deputy Town Clerk