



TOWN OF NEDERLAND PLANNING COMMISSION REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466

September 28, 2016 - 7:00 P.M.

MINUTES

A. CALL TO ORDER

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

B. ROLL CALL

Present: Chairman Roger Cornell, Vice Chairman Steve Williams, and Trustee Miller (for legislative item only). Commissioners Timmy Duggan, Greg Guevara, Stephanie Herring, and Wendy Williams.

Absent: Commissioner Seavers.

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

C. APPROVAL OF MINUTES FROM August 24, 2016

Motion to approve was made by Commissioner Williams, seconded by Commissioner Guevara, with 6 in favor, 1 abstention.

D. PUBLIC COMMENT

There was no public comment upon non-Agenda items.

E. INFORMATION ITEMS

1. Follow up from Joint Work Session and Housing work plan implementation

Reis said her memo was absent from the packet, but as indicated in the housing notes from the August 24 Joint Session, the Board of Trustees supported rearrangement of the forthcoming housing policies in order to include provisions for staffing support in the 2017 budget request for short term rental and rental licensing program rollout.

F. ACTION ITEMS

1. Consideration of an ordinance to amend NMC Sec. 18-81 Sign Code, in light of Reed v. Gilbert decision

Reis said the June 2015 United States Supreme Court *Reed vs. Gilbert* decision clarified when municipalities may impose content-based restrictions on signage. She

referenced the legal memorandum from the Town Attorney Carmen Beery, along with the outline of recommended response to *Reed v. Gilbert*, with specifics for the Town of Nederland. She said the municipal codes pertaining to signage are primarily contained in Chapter 18, with some notes from Chapter 6 with regulation for marijuana businesses, and Chapter 16 regarding Sexually Oriented Businesses.

Reis advised the Commission to review, add any additional considerations, and make a recommendation to the Board of Trustees. Commissioner Guevara noted the definition for obsolete signs specifies “30”, without the word “days” afterward. Commissioner Williams inquired about signage regulation pertaining to marijuana, to which Reis said she will confer with the Town Attorney. Vice Chairman Williams asked if the definitions are consistent throughout the code, which Reis said will be reviewed for consistency.

Motion to recommend forwarding the sign code with revisions to the Board of Trustees was made by Chairman Cornell, seconded by Vice Chairman Williams, with all in favor.

Trustee Stephanie Miller exited the meeting, in order not to hear the quasi-judicial matter next on the agenda.

2. Consideration of a Preliminary Planned Unit Development (PUD) and Rezoning Application by Dan Heine at 0 W 5th Street (Lots 1-3, 5-8 Lake View Heights) Reis introduced the item. She presented slides illustrating the property, neighborhood context and code analysis relevant to rezoning requests and Planned Unit Developments. She noted for record that Trustee Miller exited to preserve her vote at the Board of Trustees.

Reis said the parcel consists of western lots zoned Low Density Residential (LDR) and eastern lots zoned General Commercial (GC), with the applicant Dan Heine requesting rezoning of the entire parcel to High Density Residential (HDR). She said Planned Unit Developments are often assigned zoning after final approval by the Board of Trustees.

In showing neighborhood context, Reis said the western lots are surrounded by Medium Density Residential (MDR) and LDR lots, with the eastern GC lots adjacent to other commercial enterprises including commercial auto businesses, an information firm, and a marijuana cultivation business that is still in the construction phase.

Heine’s Preliminary PUD proposal is for 17 units with one unit per 4,000 square feet, in keeping with HDR zoning, and anticipated for 2 phases of development, said Reis. She added that Heine also requested the utility development fees be exchanged for 2 lots to comprise permanent affordable housing aimed at 80 percent of the area median income (AMI). Reis provided guidance for the Commission’s consideration of the concurrent applications.

Reis read the rezoning criteria and indicated a case could be made for the area changing, along with the provision of a community benefit of affordable and lower market-rate housing as reasonable to consider the request. Reis then outlined the 5 criteria specific to PUD applications. Reis also clarified that applications for properties unable to be provided with town utilities and services will not be forwarded by staff to the Commission, as a policy.

Applicant Dan Heine introduced himself and spoke about his project, and said he welcomes feedback from the neighbors to incorporate their considerations into the plan. He said he purchased the property prior to significant increase of utility development costs. Heine indicated the main access road is intended from the highway for the west side of the development, with 5th Street intended as the main access for the eastern lots. He said his proposal would offer more open space than the required 12%, and would support minimal grading of the lots. He noted more grading would be required for the western lots due to topography.

Heine said the proposed connector trail would cross the eastern lots and increase walkability to the East Street bus stop. He requested vacation of Lake Street due to steep grade and desire to increase buffer between the neighboring properties. He said the oversized garage would allow reduction in on-street parking and allow for additional storage or provide space for an in-home business. He said all the lots are south-facing with intention for passive solar orientation. Heine said that lots above adjacent neighbor, Dorothy Emerling, would be moved further north to provide further buffering.

Chairman Cornell opened the Public Hearing portion of the meeting.

Dorothy Emerling, of Nederland, said she has been a resident of Nederland for 44 years, mostly in her current location at Boulder Canyon Drive. She questioned how the proposal would affect access to her upper parking area and garage. She also expressed concerns about winter access due to snow drifts, and runoff from additional homes worsening drainage problems.

Joanne Moser, of Nederland, is an adjacent neighbor who expressed her concerns about traffic impacts, winter road maintenance, and excessive drainage on the steeper western lots, and her view being completely blocked by the proposed new development.

Glenna Carline, of the greater Nederland area, said the building at the bottom of Bridge Street that she owned for 40 years has had issues with excessive road drainage that had previously impacted her building. Despite improvements, the steepness of both roads and nonfunctioning culverts contribute to the drainage issues, Carline said.

Jon Eischeid, of Nederland, is an adjacent neighbor who said the proposal would significantly change the area, may affect property values, and would create too much traffic for 5th Street to handle. He said proposing 17 rental units of the same design style is contrary to the neighborhood and town character. He asked who would fund the additional fire hydrant and turnaround requested in the Fire Department review, and said the applicant's comparable values are not adequate in value for the requested

trade of utility costs.

Jennifer Martin, of Nederland, said the concept is not compatible with the surrounding land uses, and would be the first view into town from the highway. She said the application doesn't align with the Comprehensive Plan, nor is there evidence of any partnership with Boulder County Housing Authority. She questioned the ability to provide town services, and said the water quality may be impacted.

Pat Everson, of Nederland, said that the views around the town will also be affected, not just to the reservoir. Everson questioned the density, and said that the proposed trade for plant investment fees is not viable to provide future infrastructure upgrades.

Jim McClelland, of Nederland, said that Brown Street is unmaintained, providing access from 5th Street. He said the development would not improve neighborhood quality.

Larry Maurer, said his family owns property in Nederland and he feels the proposed density is inconsistent with the town character. He said the views from the vacant lots in his family's possession intended for future development would be affected, and area drainage issues worsened.

Chris Maurer, who owns property in Nederland but lives in Boulder, said he has concerns about access from unmaintained Brown Street, drainage, and the uninspiring aesthetic of the proposed home style.

Lindsay McMullen, Nederland property owner, said her family has owned property in Nederland since 1917. She said she represents her family's concerns such as drainage, erosion, trash, animals, and parking, along with the view and sanctity of the area being impacted.

Doug Dewey said he's owned a summer home in Nederland for 64 years. He said he's seen many changes over time, however he underscored the drainage issues intensified by the September 2013 Flood, and exacerbated by nonfunctioning culverts.

Joanne Moser made a final comment about the road maintenance, and the question of right of way for both Moser and Emerling.

Sharon McGavock, of Nederland, said her home would face the backside of the development. She noted that some lots in the area are larger, including her own, and thus she does not support the proposed density for the area.

Linda Glasser, of Nederland, said she is opposed to the development, and echoed concerns of traffic, drainage, aesthetic style and neighborhood impact.

Roy McClanahan, of Nederland, mentioned concerns about cars, dogs barking, and potential to be used for illegal marijuana cultivation, along with the main advantage

benefitting Heine. He also said renters tend to have less neighborhood longevity.

Chairman Cornell closed the Public Hearing portion of the meeting.

Heine thanked the neighbors for presenting their concerns, which he addressed. Heine said the character will change with site development because it is currently a vacant meadow. Regarding access, Heine said a negotiated easement for access was done with neighbor Joanne Moser at the time of purchase, with the proposed road not as steep as 5th Street. He said engineering would be required to dramatically improve the access of the road, site drainage and specified intended wintertime paving. Heine responded to Emerling's concern regarding access and stated he has no plan to lower the road.

Heine said individual units would be around 1,000 square feet with oversized garages to provide off-street parking, and varied exterior architecture. He said he is unsure how Brown Street would be affected. He said that his proposal also includes a request to trade 2 permanently-deeded affordable homes in exchange for utility development fees to meet the town's need for affordable housing. Heine clarified the development is not intended as low income housing. He said he would serve as the property manager and would prohibit illegal marijuana cultivation on the properties.

Heine added that he'd met with a representative from Boulder County Housing Authority when he purchased the lot, with no interest expressed by the organization to partner for development of this parcel.

Due to several audience outbursts during the Public Hearing, both Chairman Cornell and Town Administrator Reis addressed the public to ensure that further interruptions from the audience will not be tolerated in order to preserve the due process afforded to the applicant.

Reis clarified that Brown Street is not a publicly accepted or maintained road. She said subdivision laws require that the internal circulation road proposed by Heine would have to be built to the Town standards, with a 2-year warranty process required before a road would be accepted by the Town.

Chairman Cornell asked for Commission comment. Vice Chairman Williams inquired if a drainage plan has been done. Heine said a drainage plan will be completed after he receives approval to advance the project, as required by the PUD code.

Chairman Cornell said the concurrent application for rezoning and Preliminary PUD will be addressed before moving forward into specifics of the proposal. He directed the Commission to consider the request to rezone the parcel, and mentioned the paucity of rezoning applications in Nederland during his time in public service. He said the minimum lot size for HDR zoning is too much density for the area, and mentioned specific concerns about drainage.

Commissioner Herring said drainage concerns can be addressed with proper site

engineering, although there should be some extraordinary benefit to the town to consider the significant change to the neighborhood's established zoning.

Commissioner Duggan said he appreciates the desire to develop this prime lot, although he agreed with other Commissioners about neighborhood impact. He said he'd be more inclined to support a rezoning proposal for Medium Density Residential (MDR), which exists upon part of 5th Street and the surrounding area.

Vice Chairman Williams said he could not support the application due to the loss of revenue with exchange for utility development costs, and the inability of the proposal to meet all 5 requirements for approval of Preliminary Planned Unit Development.

Commissioner W. Williams said the proposed density and exchange are neither compatible nor viable for the town to consider, especially with additional maintenance required. Williams said "investment in the town" equates with investment in the infrastructure, not just private property.

Commissioner Guevara encouraged the applicant to review the area zoning to find suitable compatibility.

Chairman Cornell summarized the results of the review as follows: "After discussion it was understood there was a unanimous position of the Planning Commission regarding the Preliminary Planned Unit Development by Dan Heine as presented was ultimately was too dense."

Reis explained procedure for Preliminary Planned Unit Development without Commission support. The Commission directed staff to work with the applicant to propose more appropriate density for the parcel.

G. DISCUSSION ITEMS

There were no discussion items.

H. OTHER BUSINESS

Reis said the Special Review Use for multifamily dwelling unit at 179 Conger Street was rescinded at applicant Mark Stringfellow's request.

Reis said the Board of Trustees has had first review of the 2017 budget, which includes planning funding for additional legal and GIS help, and additional staffing necessary for management of the forthcoming short term rentals and rental licensing programs. She said ordinances for both of these policies can be provided to the Commission for review at the October meeting.

Due to expected absence, Chairman Cornell requested shifting the regular October meeting to Monday October 17 from 6 – 8pm. Once confirmed, the October 26 meeting will be canceled with update to the Town website calendars of the date change.

Reis indicated the Board of Trustees will consider update to 2012 ICC Building Codes and 2014 IECC on October 18.

Chairman Cornell said he would like to work with staff to review the NMC Sec. 16-255 Policy and Standards for Zoning Changes in order to clarify the language and offer clearer direction to the Commission for reviews.

Bakke said she will send out a Doodle poll to determine the best date to meet between November and December due to the proximity of those meeting nights to the holidays. Once a date is confirmed, the website calendars will be updated, she said.

I. ADJOURNMENT

Motion to adjourn was made by Commissioner Herring, seconded by Commissioner Williams, with all in favor. Meeting adjourned at 9:28 pm.

Approved by the Planning Commission,



Roger Cornell, Chairman, Planning Commission

ATTEST:



Cynthia Bakke, Planning and Building Technician

