



Nederland Planning Commission

MINUTES

Wednesday, September 4, 2013 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

Vice-Chairman Cornell called the meeting to order at 7:03 p.m.

2) Roll Call

Present: Vice-Chairman Roger Cornell and Commissioners Lisa Mayhew, Mikki Osterloo, Steve Williams, Betty Porter and Trustee Liaison Kevin Mueller.

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

Absent: Chairman Larsen.

3) Approval of minutes from July 24, 2013

A Motion to approve the minutes as written was made by Commissioner Cornell, seconded by Commissioner Porter, 3 in Favor, with Commissioner Osterloo and Trustee Mueller abstaining from the vote.

4) Public Comment

There were no Public Comments not pertaining to Agenda items.

5) Information Items

6) Action Items

1. Club use addition to Sec. 16-32 (c) Use Group Table

Reis reintroduced the draft ordinance to add club use to the Use chart, which was included in the previous Planning Commission packet in July. Planning Commission members then expressed apprehension at removing the "not principally for monetary gain" clause in the club definition. They requested research be done regarding how different communities define clubs, whether it is contingent upon a 'not-for-profit' status, and which districts were deemed appropriate. Staff research provided a spreadsheet

illustrating municipalities of similar size or larger, to assist determination by the Planning Commission. Nederland has the same definition as codified in some other municipalities and there was often an indication of clubs being social, fraternal lodges or associations which are not operated for monetary gain. Fanelli requested this be stricken from the definition to encompass her business idea. She referred to the letter from her attorney Jeffrey Gard, which she asked to be forwarded to Planning Commission members. This letter was accompanied by a memo of response from the Town Attorney Carmen Beery, and was given to members prior to the meeting.

Fanelli again discussed her business idea for a cannabis club, which was followed by members of the public speaking in support. She referred to the letter from her attorney regarding allowance of cannabis clubs. She said this business concept is a good idea to generate revenue and will help seniors in town as well.

John Brockelhurst, 1120 Eldorado Avenue, Eldora, spoke about being a recipient of medicinal marijuana provided by Fanelli which has been vital in his prostate cancer management.

Michael Bowie, said he lives in downtown Nederland, and would like to have a place to meet people that is safe, that is not a bar. He also inquired as to why Nederland would copy other towns instead of allowing this type of for-profit club, to see what the sales tax generates in revenue for town.

Cornell inquired if Planning Commission members had comments on the current definition. Mayhew asked if there are broader concerns if the clause is stricken. Porter restated her belief that it seems to be an arbitrary descriptor, and said she doubts it is legally binding. She noted the existence of private clubs in Utah and West Virginia that require members to join in order to consume alcohol.

Reis responded to questions about procedure. She informed the Planning Commission that they may adjust the definition, establish appropriate districts, and then convey this determination to the Board of Trustees. Use of marijuana is relatively a different issue, which was addressed in the memo from Beery. If the clause remains, Fanelli's for-profit business proposal would be disallowed. She said would prefer to operate as a club, which would also bring

in more revenue for Town. She asserted that there would be no retail marijuana for sale, nor any cultivation in the proposed space. If the clause remains, she will pursue the café idea.

Cornell said he would like to keep the present definition and decide where clubs can be added within the use group tables. He said this could be revisited in the future, if a change is desired. He noted that the Agenda item was to decide about wording and determination of appropriate districts to include clubs.

Reis said Beery still has issues as specified in the memorandum she forwarded to the Planning Commission. Reis noted that there are inherent challenges as regulating recreational marijuana is a new frontier. She said she's generally seen non-profit clubs, but they can be for profit too. Porter mentioned dance clubs, which often fall under establishments that serve alcohol. Reis said the Planning Commission can address a private cannabis consumption club, by recommending to the Board of Trustees to define and determine where to fit into use groups, if so desired.

Mueller pointed out that there is still a state prohibition for on-site consumption at retail marijuana businesses. Mueller asked Fanelli how the separate entrance for club members would be enforced. Fanelli said that admittance for club members only would be through a separate entrance, and members would have to bring their own, as there will be no marijuana sales. She noted that previous private parties with both non-cannabis users and people consuming marijuana have occurred with no issues expressed due to good air filtration. She would like to create a community area, including activities for seniors.

Reis read aloud from a portion of Beery's response pertaining to public consumption with regard to the Colorado Clean Indoor Air Act (CCIAA). Of this list of conditions, "private residences", and "a place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees" are the qualifiers that would not be conflict with the CCIAA. A proposed establishment may lawfully permit indoor marijuana smoking, only if it falls within one of these exceptions per Beery.

Reis said there would need to be additional discussion about how the private entry would be conducted. The business must be

designed so that consumption is not visible to the public, and qualify under the allowable exceptions of the CCIAA. Reis noted that the proposed business would be subject to annual inspections for business licenses. This would be reviewed if any complaints are registered about the business.

Mueller said the Board of Trustees would want to know why the Planning Commission would not allow a for-profit club. Reis mentioned that this is the current definition as well as within the draft ordinance. Porter suggested deleting “and their guests” to ensure that only members would be allowed entrance. After continued discussion, the consensus among the Planning Commission was to delete “and their guests” from the draft ordinance, though there was no disagreement as to the proposed districts in which a club would be allowed.

Porter moved to recommend to the Board of Trustees to accept the edited definition with more time for staff input to the draft ordinance, seconded by Osterloo, 5 in favor, with Mueller abstaining. This draft ordinance will then come before the Board of Trustees at the October 1, 2013 meeting.

7) Discussion Items

1. Comprehensive Plan consolidated edits

Reis discussed the Comprehensive Plan consolidated edits and inquired if she got all forwarded edits correct within the draft. Cornell suggested reviewing the edits page-by-page to ensure they are in agreement. Reis said that despite comments within the main document by the Sustainability Coordinator Conor Merrigan, more substantial recommendations were noted within the attached summary memo. Overall, he felt the Comprehensive Plan was thorough in scope, emphasized sustainability concerns, and included some actionable items. He referenced the forthcoming Sustainability Action Plan as a complementary document, where actions to be developed and metrics for measurement can be incorporated.

During the discussion, Mueller clarified that social equality asks that we consider our actions upon on others sharing the planet, with recognition that our actions may have an effect those who don't have a say. Porter reminded Mueller that the intent of the document is to describe the character of our community. Mueller

responded that he feels it does describe this community as many are striving for social equality via purchasing fair-trade products.

Mayhew said she felt that the Sustainability Coordinator Merrigan addressed many concerns in his review and asked if Mueller felt this was not properly addressed. Mueller replied that he would like to take more time, as the sustainability portion was skipped at the last work session. Ultimately this is a planning and zoning document, Cornell said. They can change something if it is incorrect, but they are not able to solve the worlds' problems within the scope of this one document.

Reis said Merrigan is recommending that an annual review occurs to measure sustainability indicators for progress. She noted that this could be included within the Comprehensive Plan or within the Sustainability Action Plan per Merrigan.

Mueller mentioned the nested systems model which emphasizes that the economy depends on human and natural capital, which is dependent upon the environment. He said that we need to consider natural capital of the watershed within the Master Infrastructure Plan, so that we understand how it functions. Cornell said he feels this is satisfied by having an Environmental Impact Statement that will be done every time, though Mueller disagreed.

Mueller asserted that non-renewable resources don't potentially compromise our ecosystems, they absolutely compromise our ecosystems. He said we know we have ecosystem degradation, which has not been addressed in depth. Reis responded that few if any Comprehensive Plans she has reviewed have tackled this subject.

The Planning Commission continued to discuss aspects of sustainability within the context of transportation. It was noted that automobiles cannot be eliminated entirely as riding a bike or walking is not always practical.

Mueller said he appreciates the statement that tourism is considered a real challenge. He pointed out that tourism is an uncertainty that businesses rely upon, and inherently unsustainable. Reis inquired if they would like to strengthen the point. Mueller affirmed he would like to add statements about

traffic, disposable items, and fossil fuel usage, but is unsure where to integrate these concerns.

Reis said a comment could be forwarded to determine what we have as regards riparian corridors for further analysis. Reis will forward recommendations to Merrigan for inclusion within the Sustainability Action Plan.

Cornell pointed out consideration for incorporating affordable housing and would like this to be noted as mixed-use or higher density. Reis said he is researching the affordability requirement, which she said could artificially inflate or deflate the market. Within Planned Unit Developments there is a natural lands requirement; however the concept of mandating affordable housing is not currently included.

As regards transportation, the Planning Commission would prefer changing free bus passes to subsidized transit passes, as this consideration will be on the November ballot.

Mueller inquired if the Gateway Master Plan satisfies resident needs. He cited data indicating that 86% of residents felt their outdoor activities were met, despite the recurrent desire expressed for a swimming pool. Merrigan noted that a pool is not a feasible addition to the Community Center, despite demand. Planning Commission members would like to add "to explore opportunities for future recreation" as a practical way to account for unmet requests such as a pool, without implying that one will be constructed. It was mentioned that more public restrooms are necessary within Town and the Gateway Park area.

The Planning Commission would support Merrigan's strategies to tackle energy concerns within the Utilities section, as this was not properly addressed within the document. Within the Land Use section, it was requested to include that a storm drainage facility is deemed essential.

Cornell asked for a bullet to ensure crosswalks are painted annually. Reis said that the Public Works manager continues to advocate for maintenance, and a resolution could be forwarded to the Board of Trustees requesting that CDOT to enforce this repainting.

2. Comprehensive Plan Executive Summary Section and Sustainability Review from the Sustainability Coordinator

Executive Summary: Williams said it is important to indicate that the public has submitted considerable input throughout this process. It was also noted that the Comprehensive Plan is the guiding document, has been aligned with the visioning process, and other strategic plans will be integrated with this document, not the reverse.

Sustainability memo: Reis explained that Merrigan's memo is an overall review to synchronize the Comprehensive Plan with the sustainability planning effort, with specific call-outs regarding energy consumption.

Reis will send consolidated edits to the consultants, to be forwarded as a resolution from the Planning Commission and put before the Board of Trustees for adoption.

8) Other Business

Reis reported that the Special Review Use for a venue at 55 Indian Peaks was adopted by Board of Trustees. All Planning Commission conditions have been signed off.

Mueller mentioned concerns that arose about retail marijuana establishments, in the Neighborhood Commercial district, as the recommendation was that it would be allowed by Special Review. In the past, mixed-use was encouraged in this area, however it was generally considered from a residential standpoint, allowing workshops or studios, but retail use is different. Cornell stated that originally the owner had to live in the space, however this has evolved. There are some vague guidelines about traffic and impact, but Cornell said he thinks that it merits further review. Mueller inquired if it is possible to differentiate within the Neighborhood Commercial, specifically naming undesirable aspects. He noted that some areas within this district are more commercial and others more residential. Reis suggested that guidelines can be evaluated within the special review process, as rezoning is a more arduous process. This way, certain elements such as impact on neighborhood can be taken into


consideration. There are differing rules depending on whether it is a recreational or medical marijuana establishment. Reis noted that medical establishments can apply as of October 1, 2013 to sell recreational marijuana, therefore there are time considerations.

Reis reported that the Caribou Ridge subdivision has been sold. The new owner David Nassar has spoken to staff regarding a Planned Unit Development amendment, which would potentially come before the Planning Commission at the regular October meeting. Nassar has proposed to create a private home/rental market, instead of the previous homeowner-management company model.

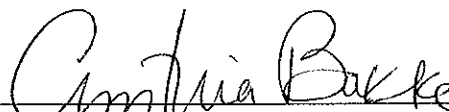
9) Adjournment

A motion to adjourn was made by Commissioner Porter, seconded by Commissioner Williams, and was unanimously approved at 9:41 p.m.

Approved by the Planning Commission,



Roger Cornell, Vice-Chairman, Planning Commission

ATTEST: 

Cynthia Bakke, Deputy Town Clerk