



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

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

September 24, 2014, 7:00 P.M.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

1. Welcome new Planning Commission member Timmy Duggan

C. APPROVAL OF MINUTES FROM August 27, 2014

D. PUBLIC COMMENT

E. INFORMATION ITEMS

F. ACTION ITEMS

1. Nederland Planning Process review for the Mayor's Task Force on Building Code Updates

G. DISCUSSION ITEM

H. OTHER BUSINESS

1. Land Use Case Updates

I. ADJOURNMENT



Nederland Planning Commission

MINUTES

Wednesday, August 27, 2014 ~ 7:00 pm

Nederland Community Center

750 Highway 72 North

1. CALL TO ORDER

Chairman Cornell called the meeting to order at 7:02pm.

2. ROLL CALL

Present: Chairman Cornell, Vice Chairman Williams, Commissioners Stephanie Herring, Mikki Osterloo, and Betty Porter

Absent: Trustee Liaison Donahue Lisa Mayhew (submitted letter of resignation).

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

Chairman Cornell noted that Commissioner Mayhew will be out of state until December, and thus submitted her resignation. Cornell said that the Board of Trustees (BOT) approved an additional Commissioner to allow for 8 total members, including the BOT Liaison. As such, the Commission has 2 vacancies to fill.

Timmy Duggan of Nederland and a Boulder-native, is retired from Olympic-level cycling and now completing requirements to become a real estate agent. He said he's honored to be considered for the position, eager to learn and passionate about the community. Commissioner Porter asked if there is concern about conflict of interest due to his job. Chairman Cornell said as an agent it may or may not be a conflict, but if Duggan is representing a property, he'd have to recuse himself, which Duggan affirmed. Reis said it would be application-dependent, and all are reviewed by staff and legal on a case-by-case basis.

Motion to recommend approval of Timmy Duggan for the Planning Commission made by Vice Chairman Williams, seconded by Commissioner Porter, all in favor. The Board of Trustees will consider this item on September 16.

3. APPROVAL OF MINUTES from July 23, 2014

Motion to approve July minutes as written made by Commissioner Herring, seconded by Vice Chairman Williams, 4 in favor, 1 abstention by Osterloo, who was absent from this meeting.

4. PUBLIC COMMENT

There was no public comment.

5. INFORMATION ITEMS

There was no public comment not pertaining to Agenda items.

6. ACTION ITEMS

1. Consideration of Special Review Use (SRU) application by Wendy Williams for a multifamily residence at 439 W. 3rd Street.

Reis introduced the item. The application proposes to convert an existing single-family residence to a duplex, located in the Neighborhood Commercial (NC) district, a use allowed by SRU. The requirement for on-site parking for a multi-family residence is to provide one (1) space per bedroom. Williams proposes to have a total of 4 bedrooms, with equivalent parking spaces.

Williams discussed her proposal for the multi-family residence, an 881 square-foot addition to create an adjoining, separate residence with 2 bedrooms, kitchen, living room and a bathroom. She said that the project complies with every applicable code requirement, and her application supports Nederland Design Standards, as well as the Comprehensive Plan by infill development within a walk-able location.

Chairman Cornell asked about the lots involved in the parcel, as the map shows 5 lots. Williams clarified that the property consists of 4 lots, as the 5th got mapped out. Reis noted that there no significant issues with the application, which is an existing house that straddles 2 lots, upon which they propose to build an addition.

Chairman Cornell asked about the shed on the property observed during a site visit. Applicant Williams said it is a shed, but noted that the SRU's focus is with lots 2 and 3. She said that there may be plans in the future regarding lots 1 and 4, though out of the scope of this special review. Vice Chairman Williams inquired if there are plans to dissolve lot lines, to which applicant Williams stated that there are none at this time.

Chairman Cornell opened the public hearing portion. No comments offered from the public in attendance, thus Cornell closed the public hearing portion.

Commissioner Herring asked for clarification regarding the parking as it intends to span all 4 lots. Applicant Williams said there is 1 space each upon lots 1 and 2, with 1 space each at the front of lots 2 and 3. If any future changes are to be made with Lot 1, they will redesign the parking to accommodate the duplex, stated applicant Williams.

Reis said that Williams needs to provide a total of 720 square-feet or (4) 9x20sf spaces for the standard parking requirement, a condition of the SRU Agreement.

Commissioner Herring asked for the parking context along this street. Reis said that very few town roads are to standard width, a particular issue for snowplowing

operations. She said that town staff reviews conditional uses, especially for multi-family or commercial development to ensure off-street parking is addressed. She said this neighborhood is receiving attention in planning and signage, due to parking issues associated with unpermitted nonconforming situations, garnering neighbor complaints.

Reis said that for multi-family units, the respective utilities will each be served by the same service, but with a separate meter. She delineated that the duplex would have a master service, but this would be separated if the units sold separately, akin to a condo agreement. She said that applicant Williams would be given credit for the existing tap size if upgrade necessary, or maintain current size, if sufficient.

Motion to recommend approval of the multi-family SRU at 439 W 3rd Street, meeting criteria of NMC Sec. 16-55 made by Commissioner Porter, seconded by Commissioner Herring, with all in favor. Reis said the application will move to the BOT on September 16.

2. Consideration of Special Review Use application by Arthur Amacher for a multifamily residence at 253 W. 3rd Street.

Reis introduced the item. She said that the home has been classed as a single-family residence, despite being used historically as an unpermitted multi-family residence. The proposed use does not meet the minimum lot size for the Medium Density Residential (MDR) district, however it is being forwarded due to its potential documented use as legally nonconforming, she said.

Reis described the property's history, with a Certificate of Occupancy indicating it is a single-family dwelling. An addition of 3 bedrooms and 3 baths in 2002 was likely when the multi-family transition took place, she said. The application proposes to formally permit the multi-family as 2 units, plus the separate studio/shed as a third unit, allowing a total of 6 bedrooms. She said that this property specifically contributes to on-street parking, with a condition of the SRU Agreement to ensure all parking to be contained on-site.

Property owner Arthur Amacher, of Nederland, said that he would like to bring the property into conformance, as well as allow much-needed rental housing in Nederland. He has been in the rental business for many years and gets numerous inquiries when listing the house for rentals, he said. He has worked to clean up the property and provide sufficient parking within his proposal, said Amacher. He noted that he is currently billed by the Town for 4 separate units for utilities.

Chairman Cornell opened the Public comment portion of the hearing.

Leonard Kottenstette, of Nederland, presented pictures he prepared of the property with specific focus upon the area's parking situation, noting that most of the pictures were taken in the last 2 weeks. He noted that the house has been an illegal multi-family unit for 12 years. He said he has reported issues such as on-street parking, dogs, and backyard bonfires many times with present and previous town staff, with no resolve until Code Enforcement began in 2014. He indicated that the proposal is not in

keeping with the neighborhood's character nor does it meet the minimum lot size requirements. Kottenstette questioned whether the single-family dwelling converted to a multi-family unit has proper fire rating as required.

May Jarrill, of Nederland, said that Amacher has a high standard of building and tenant management. She acknowledged that the removal of a smaller shed will better accommodate needed on-site parking. Jarrill said that she can empathize with Kottenstette as she has lived near the NedCompost operation at the Town shop for years, but added that it's a part of living in a town. She lauded Nederland's distinctive character, and said she favors approval of this SRU application. Amacher is resolving the parking situation and improving a property in poor condition when purchased, said Jarrill.

Jana Mantifel, of Nederland, said she has had concerns about this property for 10 years. She mentioned there is an existing parking problem on 4th Street already, notwithstanding use by tenants of 253 W. 3rd Street. She has confronted tenants of this property about parking on 4th Street, and asked the Commission to deny the application.

Chairman Cornell closed the public hearing portion.

Reis clarified the code allows for up to 4 unrelated adults to reside in the same house. She said that rental licensing and enforcement will begin in January 2015. Reis said that Amacher's application proposes 3 rental units, which the Commission can vote to approve or deny as presented, approve with additional conditions, or minus the studio/shed unit in their recommendations. She added that on-site parking is required, which may necessitate additional measures to ensure parking does not stray from the site.

Chairman Cornell inquired as to when the shed became a home, and if a Certificate of Occupancy was issued. Amacher said that the studio was added onto the meter of the house, and was there under his previous ownership of the property in 2003. The property file contains no record of approval or C.O. issuance for the shed, said Reis. Amacher suggested that an additional inspection can be conducted to approve the studio as a residence. Cornell said that the 11,000-square foot parcel size does not meet zoning requirements of the MDR district to accommodate the proposed multi-family units, in addition to providing requisite on-site parking.

Amacher said when he initially purchased the home in 2003, and the addition and studio/shed were existing structures. He said he bought the house again, knowing that it is classed as a single family home, with potential multi-family allowance via SRU. He noted that the property's condition implies neglect by the previous owner.

Reis said the town has taken a proactive approach with real estate agents that have marketed the home as a multi-family unit. The property file included a 2013 letter clarifying the SRU requirement for allowance of multi-family residences.

Vice Chairman Williams asked if studio is in conformance with setbacks. Commission discussion ensued about whether setbacks are considered for principal or accessory use regarding the studio/shed. Amacher said that the layout of the house favors smaller units, noting that there will be multiple tenants as long as it is a rental unit. Vice Chairman Williams inquired about further renovation to create separate units. Amacher stated that he does not intend to further alter the house.

Commissioner Porter asked if Amacher took on tenants when he bought the property. Amacher responded that there were no tenants at the time of purchase. Porter mentioned complaints submitted in the last 6 months under present ownership, along with neighbor complaints of the previous decade. Amacher said that there is still cleanup necessary on the property. He said that open parking along town roads may or may not be tenants of this house.

Chairman Cornell asked if the application complies with NMC Sec. 16-33, due to the district's minimum lot size requirements. He listed requirements for approval, asking the Commission to consider if met, or if approval will necessitate proposal changes.

Commissioner Porter inquired about the roommate allowance under NMC Sec. 16-6 Definitions (Family) of 4 unrelated adults in a dwelling unit, is relevant to house size. Reis confirmed that this allowance is the same regardless of the structure size, noting that maximum occupancy can be included as a condition of the SRU Agreement.

Commissioner Osterloo asked about making parking passes. Reis acknowledged this could be an option if the town had more right-of-way space. The rental code will have to be reviewed, with assistance from rental licensing and enforcement, said Reis. She added that the SRU Agreement can include a condition of maximum occupancy.

Noting the nonconformance of the studio/shed, Commissioner Herring asked if the house itself as 2 units would be conforming to the code. Reis responded that the home still would not be strictly conforming, as the lot size is too small for the two units, but she acknowledged the code allowance for continuation of a non-conforming residential use under certain circumstances. The town has many cases of a similar nature involving large houses utilized as unpermitted multi-family structures. Reis conceded that this may warrant a legislative policy instead of the current process of individual review.

Chairman Cornell indicated the nonconforming studio/shed may contribute to the opposition presented earlier during the public comment portion. He said that the fire code regulations and rental licensing can be addressed via code enforcement. Amacher stated that fire walls were made at the time of the large addition construction.

Commission discussion concluded the need to eliminate the studio/shed from the proposal, with the multi-family unit contained in the house. Commissioner Porter noted that Amacher has had only 6 months to remedy damage from the previous tenants.

Commissioner Herring acknowledged the historic usage; however, she said that more parameters need to be in place for a comprehensive review for applications with similar nonconformance. She suggested limiting occupancy as an SRU condition.

Chairman Cornell reopened the public comment portion to allow additional comment for one minute.

Amacher summarized that as a single family home with 5 bedrooms that there will be about the same amount of people living there. He added that there is a desperate need for smaller, more affordable units, and has had many inquiries about the studio.

Leonard Kottenstette said that even without inclusion of the studio/shed this SRU application does not meet minimum lot size requirements. He noted the possibility that sale of the house or future elimination of code enforcement will cause issues to persist.

May Jarrill said that the house meets requirements for setbacks and lot coverage. She said that ideally the SRU process would improve the property by increasing parking spaces and adding much-needed housing in town. Jarrill encouraged the Commission to move forward with approval for the pre-existing house.

Jana Mantifel stated that zoning for the house is as a single-family residence, along with the adjacent structures along the street. Mantifel said that the pictures submitted by Kottenstette demonstrate the use of parking upon 4th by 253 W. 3rd Street tenants.

Wendy Williams asked if approval would set a precedent for other residents in the town. She said she doesn't want to see the character of the neighborhood change into large multi-family units.

Cornell closed the public hearing portion.

Commissioner Osterloo suggested sticking to the code until directed to revisit the code by the Trustees. Reis noted that there are approximately 30-40 properties that would apply. Vice Chairman Williams acknowledged the additional burden upon staff for case-by-case reviews.

Commissioner Herring asked if a case can be made for existing homes as opposed to new development. Reis said that new development must be conforming; however, there is consideration for existing homes under the nonconforming use code.

Reis noted that the property in question has previously been used as 4 separate rental units, including 2 shed structures. She indicated that density and lot size per dwelling unit will be a consideration of the Commission, throughout the community, and especially within the Old Town area.

Reis said the acknowledgement of pre-existing use and structure can continue, provided the use is not abandoned for 12 months or more, the point being to try to reach a lesser nonconformance and to meet requirements otherwise.

Commissioner Herring acknowledged the need for affordable smaller units, noting the interesting balance of ensuring code compliance while supporting the Comprehensive Plan which specifies a need for housing.

Reis said a non-transferrable condition of the SRU Agreement can be included so that sale of the property would necessitate the new owners to reapply for this allowance. Vice Chairman suggested review of this application as well, to which Reis added that a conditional review at 12 months may also be a condition of approval.

Amacher indicated that the town is aware of the property's use as a four-plex being as he is being charged for 4 water uses.

Chairman Cornell acknowledged that the property has historical use as duplex or four-plex, and has been in use for at least 12 years. Commissioner Osterloo would support recommendation of a duplex with inspection in one year, depending upon BOT approval. Chairman Cornell said that he would support the application with conditions as a permitted nonconforming parcel.

Amacher said there are many houses with the same issue, and there should be a plan for resolution. He inquired if the town intends to shut all these multi-family residences down and how a large family would be able to provide ample parking. Reis said often times the parcel is larger to accommodate parking requirements.

Motion to recommend to the BOT approval of the SRU Agreement for a duplex at 253 W. 3rd Street for a nonconforming use with a one-year review, non-transferrable, with all off-street parking, to meet all duplex codes, and exclusion of the studio/shed made by Chairman Cornell, seconded by Commissioner Porter, 4 in favor, with Vice Chairman Williams opposed. Reis said that the application will appear before the BOT on September 16.

3. Municipal Code Review: Special Review Use/Home Occupations related to retail marijuana operation

Reis introduced the item. She said that this was the BOT's consideration at the time with retail marijuana home occupation use. At the joint BOT/PC work session, it was decided to follow the existing code. She noted that within certain districts the intention was to treat medical and retail marijuana allowances similarly, as despite regulatory differences, the same issues are involved.

Medical marijuana edibles is use-by-right in the Central Business District (CBD), although not allowed under retail marijuana allowances. She said if they wanted to further streamline they could change categories, though this is how they are referenced.

Commissioner Herring said that she left the joint work session with the understanding that retail marijuana cultivation presents enforcement issues. Reis said the follow-up to the work session involved study regarding enforcement and discussed inspections during hours of operation, even for home occupations.

Commissioner Osterloo said in past discussion the Commission had put forward their recommendation of no allowance in the residential zones. Reis said that the Trustees are unwilling to undertake changes to the existing allowances, despite unanimous recommendations by the Planning Commission.

Commissioner Herring said she opposes special review use for marijuana testing facility in residential districts. Reis said she can put forward Chairman Cornell's recommendation to bring back before the Commission as a separate motion.

Reis said that building codes will have to be met to be established to convert buildings into commercial grow operations, a significant expense that may be cost-prohibitive to most.

Commissioner Porter asked about changing the total floor area percentage for home occupations to 35% with a limit of square footage. Reis said this is possible, and noted that it will apply to all home occupations, whether marijuana use or not. Presently, the allowance is for 50% of total floor area.

Chairman Cornell said that the Police Department needs guidelines for enforcement. Reis said that there will be an enforcement program undertaken after October 1st, and that the caregiver loophole will need to be addressed. The Medical Marijuana Enforcement Division (MMED) is tackling the issue, but nothing is as-yet formalized, so is up to individual communities, she said. Reis noted that the 12 plant maximum is only limited in communities that have adopted this restriction. In Nederland's case, with the allowance for up to 4 unrelated adults, this would translate as a total of 24 plants. She said that they can recommend amendment to Ordinance 720, but recommended addressing this issue at a later time, as current retail applications require more expediency.

Reis clarified options for the Commission's recommendations, which can be forwarded as several motions.

Motion to approve a change to NMC Sec. 16-76 from 50% total floor area to 35% floor area made by Commissioner Herring, seconded by Vice Chairman Williams, with all in favor.

Motion to recommend approval to draft an ordinance prohibiting all current marijuana cultivation allowances within the residential districts made by Chairman Cornell, seconded by Commissioner Porter, with all in favor.

Motion to recommend approval of changes to the use group allowances as referenced and attached. Motion made by Chairman Cornell, seconded by Commissioner Osterloo, with Chairman Cornell in favor, and 4 opposed.

4. Nederland Planning Process review for the Community Center Site Plan

Reis introduced the item. This is the 30-year plan for the building and site, Reis

clarified, not a building/engineering plan, as it takes an expanded view. Though the discussion has been ongoing, the Town decided in 2010 to look beyond the west wing, addressing the site to enhance features, amenities, and increase usage, she said.

Reis said that the project committee studied the site context within the community to improve site features such as drainage, parking and traffic flow, and connection with the neighborhood. The plan has gone through numerous iterations, along with an advisory board summit, with the BOT seeking advisory board recommendations through the Nederland Planning Process. (NPP) The CCFB would raise the funds, and the plan gives a road map of enhanced facility and site usage, she said.

A request for civic presence proposes to relocate the Town Hall, and possibly the Police Department, which accrues monthly rent in its present location. The Civic space would be separated from the recreational area, as well as continue to be a place to seek aid, provide a community kitchen and offer on-site business uses. Per Reis, one of the big concepts is to have a one-way road to enter from and cycle off the south side of the site and around to Forest Road at the north end, as well as an updated entry feature oriented toward the highway. The existing biofuels area would be updated to be a non-profit hub that accommodates uses such as the community food project, NedCompost, and transit-oriented services, she said.

Reis said that a hydrology study and repair is expected in the first phase, while the town submits for 2nd round FEMA-funding to address existing issues. The parking lot is to serve as drainage basin, while the town and State Highway Department work together on a proposal for a crosswalk across the highway, she said.

Commissioner Porter noted that there are steps along the way to reprioritize areas of the project as needed. Vice Chairman Williams said it is important to consider whether the plan will be adequate for the community's need in 35 years.

Motion to recommend approval to the BOT of the CC Site Plan as presented made by Commissioner Herring, seconded by Commissioner Porter, with all in favor.

G. DISCUSSION ITEM

There were no discussion items.

H. OTHER BUSINESS

There was no other business.

****DRAFT – Not Yet Approved by the Planning Commission****

I. ADJOURNMENT

**Motion to adjourn made by Porter, seconded by Williams, with all in favor.
Meeting adjourned at 10pm.**

Approved by the Planning Commission,

Roger Cornell, Chairman, Planning Commission

ATTEST:

Cynthia Bakke, Deputy Town Clerk



AGENDA INFORMATION MEMORANDUM NEDERLAND PLANNING COMMISSION

Meeting Date: August 27, 2014
 Initiated By: Alisha Reis
 Dept: Administration/Zoning
 Information _____ Discussion _____ Action X

AGENDA ITEM

Municipal Code Review: Special Review Use/Home Occupations related to retail marijuana cultivation operations

SUMMARY

In follow to the Commission's Joint Work Session with the Board of Trustees, below are several proposed code changes to ease licensing and other considerations. These changes also incorporate consideration for the Planning Commission's long-discussed concerns related to the floor area allowance for home occupations.

USE GROUPS	DISTRICTS						
	F	MR LDR MDR HDR	NC	CBD	GC	I	P ⁷
<i>Marijuana Establishment Use Groups:</i>							
<u>Retail</u> Marijuana cultivation facility	Y	R ⁹	R	R	Y	Y	N
<u>Retail</u> Marijuana product manufacturing facility	N	N	N	N <u>Y</u>	Y	Y	N
Marijuana testing facility	N	R ⁹	R	Y	Y	Y	N
Retail marijuana store	N	N	R	Y	Y	N	N
Medical marijuana center	N	N	Y <u>R</u>	Y	Y	N	N
Medical marijuana optional premises for cultivation	N	N <u>R⁹</u>	Y <u>R</u>	R	Y	Y	N
Medical marijuana infused product facility	Y	N	N	Y	Y	Y	N

"N" = use groups prohibited
 "R" = use groups permitted by special review
 "Y" = use groups permitted outright

Footnotes:

...⁹A marijuana cultivation facility is permitted in the residential zoning areas as a home occupation, under the special review use permit process.

Sec. 16-76 Home Occupations.

- (a) A home occupation shall be allowed as a permitted accessory use, provided that all of the following conditions are met:
- (1) Such use shall be conducted entirely by members of the family occupying the dwelling and/or one (1) on-site employee.
 - (2) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
 - (3) The total area used for such purposes shall not exceed ~~one-half (1/2)~~ thirty-five percent (35%) of the floor area of the user's dwelling unit; accessory structures and garages may not be considered under this provision.
 - (4) There shall be no exterior advertising other than identification of the home occupation. Such identification sign shall not exceed six (6) square feet and shall comply with all other requirements of this Code. Any other method of advertising shall not solicit or direct persons to the address.
 - (5) There shall be no offensive impacts in violation of this Code, such as noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
 - (6) There shall be no exterior storage on the premises of material, customer property or equipment used as a part of the home occupation.
 - (7) Off-street parking shall be provided to accommodate the parking needs of the home occupation; home occupations shall not generate traffic which significantly affects the residential character of an area and shall not generate more trips per day (TPD) than the standard for a single-family dwelling unit (SFDU) – ten (10) trips per day is the average TPD for a SFDU.
 - (8) The structure with the home occupation is in the F, MR, LDR, MDR or HDR zone.
 - (9) The home occupation shall not include:
 - a. A use prohibited in the zone district.
 - b. An animal hospital.
 - c. A restaurant.
 - d. A bed and breakfast.
 - e. A group home.
 - f. An auto repair shop.
 - g. A nursing home/convalescent home.
 - h. A barber shop/salon.
 - i. An excavating or heavy equipment rental.

- j. A mortuary.
- k. A use which requires a special review or a conditional use permit in the zone district. An exception to this shall be permitted for properly licensed marijuana cultivation establishments that obtain an approved Special Review Use permit.

BACKGROUND

As discussed, the Board of Trustees tasked the Planning Commission with determining review criteria for retail marijuana business applications that require Special Review Use permit (SRU) and Home Occupation licensing. These include retail cultivation and testing facilities within the various residential zoning districts, and retail marijuana stores in the Neighborhood Commercial zoning district, as shown below.

USE GROUPS	DISTRICTS						
	F	MR LDR MDR HDR	NC	CBD	GC	I	P ⁷
<i>Marijuana Establishment Use Groups:</i>							
Marijuana cultivation facility	Y	R ⁹	R	R	Y	Y	N
Marijuana product manufacturing facility	N	N	N	N	Y	Y	N
Marijuana testing facility	N	R ⁹	R	Y	Y	Y	N
Retail marijuana store	N	N	R	Y	Y	N	N
Medical marijuana center	N	N	Y	Y	Y	N	N
Medical marijuana optional premises for cultivation	N	N	Y	R	Y	Y	N
Medical marijuana infused product facility	Y	N	N	Y	Y	Y	N

"N" = use groups prohibited
 "R" = use groups permitted by special review
 "Y" = use groups permitted outright

Footnotes:

...⁹ A marijuana cultivation facility is permitted in the residential zoning areas as a home occupation, under the special review use permit process.

Licensing will commence October 1 for all new retail marijuana stores, marijuana infused products (e.g. edibles), cultivators, and testing facilities. These are the licensees unaffiliated with medical marijuana licensees that had existed in Town already and who had first bite at the apple for licensing after regulations were adopted last fall. The only MMJ licensee to convert to retail was Canary Song, a retail marijuana store approved by the Board of Trustees after licensing board hearing on January 21, 2014.

Currently, the Town has received word from a few potential applicants for retail cultivation, infused products, and retail store licenses. One applicant has begun

the process (see attached Clerk’s Report). None of these are within the zoning districts requiring Special Review Use permits – nearly all are within the General Commercial (GC) zoning districts. We have not received any inquiry related to testing facilities or residentially based cultivation facilities.

Special Review Use Codes (Ch. 16, Article III, Nederland Municipal Code)

The Town code related to Special Review Uses outlines the purpose of allowing for such “conditional” uses in zoning districts that generally allows for one predominant use, e.g. homes in residential zones (emphasis added):

“Although each zoning district is primarily intended for a predominant type of use (such as dwellings in residential districts), *there are a number of uses which may or may not be appropriate in a particular district depending upon, for example, the location, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets and potential environmental effects.* These factors may dictate that the circumstances of development should be individually reviewed. It is the purpose of this Article to provide review of such uses so that the Town is assured that such uses are compatible with their locations and surrounding land uses and will further the purposes of the Article and the Comprehensive Plan. (Sec. 16-51 Purpose.)”

Generally speaking, SRU permits are meant to be considered for areas in which this atypical use would “fit in” with the predominant use of the zoning district and not detract from the full realization of that predominant use. For this reason, SRU applications must meet the five criteria outlined in Sec. 16-55, which include considerations for surrounding land uses, adverse impacts on the neighborhood, and capacity of Town services to serve them.

Home Occupations (Ch. 16, Sec. 16-76, Nederland Municipal Code)

Home Occupation licenses are meant to allow for small and/or cottage-style businesses to be operated out of the home. They are defined as such in the Town code (Sec. 16-6, emphasis added):

“Home occupation means an occupation carried on in the dwelling or accessory building by members of the family occupying the dwelling, and/or one (1) on-site employee; provided that the residential character of the building is maintained and the occupation is conducted in such a manner as not to infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.”

Home occupations are an accessory use, meant to be “clearly incidental and secondary to the use of the dwelling for dwelling purposes” (Sec. 16-76 (a) (2)). The total use of the home for a home occupation shall not exceed 50 percent of the floor area of the home (accessory structures and attached garages do not count toward this allowance). Home businesses also are not to produce any “offensive impacts in violation of this Code, such as noise, vibration, smoke, dust,

odors, heat or glare noticeable at or beyond the property line” (Sec. 16-76 (a) (5)). Truly, a home business under the code is meant to be neither seen nor heard.

Several types of uses are prohibited as home occupations – e.g. bed and breakfast, salon, group home, etc. – including any use that “requires a special review or a condition use permit in the zone district” (Sec. 16-76 (a) (9) (k)).

Analysis

When the Board of Trustees tasked the Mayor’s Task Force on Retail Marijuana in February 2013 to draft regulations for the industry, the overarching goal was identified as created a structure that would allow for the legitimate operation of marijuana-based business within the community while also preserving the ability to raise a family here. We have seen issues surrounding residentially based cultivation that may impact that goal. Many of the concerns we hear from residents include odors from various cultivation facilities (particularly those in neighborhoods), the conversion of limited housing stock (particularly rental housing) to cultivation operations, increase in ancillary crime, and messages to young people related to the “normalization” of drug use.

While Ordinance 720 provided prohibits dumping of chemicals or dirt byproduct from cultivation facilities, the Town continues to see this issue both in wastewater treatment and in found used soils around town (dumping on roadsides). Staff has begun discussions related to potential incentives for safe chemical (growth promotion/pesticides) and dirt disposal.

Many of these issues will need to be considered via the Special Review Use permit process.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees adopted recreational/retail marijuana regulations via Ordinance 720 on Aug. 20, 2013. The licensing elements of these regulations were further clarified in Ordinance 721, adopted on Oct. 1, 2013.

The Board charged the Planning Commission with creating criteria for Special Review Use permits related to these new regulations, including Home Occupation Business Licenses for marijuana-based businesses in residential zones (retail marijuana cultivation facilities and marijuana testing facilities).

The Planning Commission discussed these licensing and zoning needs at its meeting of April 23, 2014. They decided they would request a work session with the Board of Trustees to better understand the issue.

The Planning Commission and the Board of Trustees discussed the licensing requirements for cultivations in the residential zones and other related subjects at a joint work session on July 23, 2014.

HISTORY AND PREVIOUS BOARD ACTION

- 1) Does the Commission wish to recommend the proposed changes to the Home Occupation Code?
- 2) Does the Commission to recommend the proposed changes to the Use Chart?
- 3) Does the Commission have suggestions to amend the SRU criteria (Sec. 16-55) related to marijuana establishments in residential zones?

ATTACHMENTS

- 1) Recreational/Retail Marijuana is governed by Ch. 6, Article XI
 - (Available at: <http://nederlandco.org/government/municipal-code/>)
- 2) Special Review Use Code
- 3) Joint Session Informal Notes, July 23, 2014



AGENDA INFORMATION MEMORANDUM NEDERLAND Planning Commission

Meeting Date: September 24, 2014
Prepared By: Alisha Reis
Dept: Administration
Information Discussion Action

AGENDA ITEM:

Presentation of recommendations of the Mayor's Task Force on Building Code Updates.

SUMMARY:

The Task Force has met twice a month since being seated in March, with their efforts culminating in the attached recommendations memo. Highlights include recommendations to: 1) Adopt the 2012 International Code Council building codes, 2) Adopt the 2008 National Electrical Code, 3) Adopt an exception to the 2012 building codes for residential sprinklers to be encouraged by not mandated in new construction and alterations of 20 percent of floor area or more, 4) Adopt code changes to ensure safety in marijuana cultivation operations, 5) Adopt code changes to support affordable housing, 6) Adopt codes changes to clarify driveway, drainage, ignition-resistant materials, design guidelines and other standards, and other actions.

The Task Force appreciated the opportunity to consider and weigh in on the building codes and thanked the Board for the invitation.

Next Steps

Building safety contractor SAFEbuilt has received the recommendations for review, as has Town technical staff. These reviews will likely occur over the next couple of months. At the Board's direction, Town staff can draft an ordinance to update the building codes as recommended. If the Board wishes to pursue code updates, staff recommends these be made effective Jan. 1, 2015, in time for the next building season. The Nederland Planning Process (NPP) review will be conducted for the Planning Commission, Board of Zoning Adjustment, and the Sustainability Advisory Board.

HISTORY AND PREVIOUS BOARD ACTION:

The Mayor directed on Feb. 18, 2014 that a Mayor’s Task Force review and make recommendations related to the updating of the Town’s building codes. The Town is currently under the 2006 International Code Council building codes. Members were compiled from the various trades, with advisement from staff of the Town and the Nederland Fire Protection District.

Members included:

Ken Bradley, electrician
Debbie Davenport, architect
Jeff Fruth, builder
Steven Roszell, builder
Mark Stringfellow, builder
Stephen Taylor, builder
Rich Tillotson, builder
Alisha Reis, Town staff

On advisement:

Rick Dirr, Fire Chief
Jason Morrison, Public Works
Manager
Mark Weritz, Town
engineering/geotechnical
Chad Johnson, building official
(SAFEbuilt)

The group has been working since early March. Their plan of work included: 1) influence of the Comprehensive Plan on the building codes, including land use and code enforcement concerns; 2) all building, fire, mechanical, fuel gas, plumbing, energy and electrical codes, including discussion on the new sprinkler requirements; 3) wildfire/fire resistant materials and mitigation; 4) hillside development/drainage/grading/erosion control/driveway standards; and 5) permitting processes.

ATTACHMENTS:

1. Final Task Force Recommendations Memo
2. BOT Minutes of Feb. 18, 2014 (relevant portion)
3. Recommendations by Trustee Kevin Mueller
4. Recommendations by Task Force member Rich Tillotson

FINANCIAL CONSIDERATIONS:

Recommendation reviews and ordinance drafts will require staff hours and Town Attorney hours.



MEMORANDUM

To: Board of Trustees
CC: Town Administrator Alisha Reis
From: Mayor's Task Force on Building Code Updates
Date: July 15, 2014
Re: Task Force Recommendations

The Mayor's Task Force on Building Code Updates was seated March 13, 2014, upon the February 18 request of the Board of Trustees to seek the opinion of builders and other trades professionals related to updates to the Town building codes. The Town's building contractor SAFEbuilt has recommended adopting the 2012 International Code Council codes (IBC, IRC, IECC, etc.) and the 2014 International Electrical Code. The Task Force reviewed materials provided by SAFEbuilt, the Nederland Fire Department, Town Staff and others, discussing pros and cons of various parts of the codes before arriving at several recommendations.

The Task Force respectfully submits the following recommendations for the Board's consideration.

Regards,

Ken Bradley
Debbie Davenport
Jeff Fruth
Steven Roszell

Mark Stringfellow
Stephen Taylor
Rich Tillotson

General Issues

General Code Discussion

- **RECOMMENDATION:** Review off-street parking codes for opportunities to remove barriers for mixed-use projects and to encourage car-free living.

- RECOMMENDATION: Review SRU requirements for duplexes and multi-family zoning categories.
- RECOMMENDATION: Review 48-inch frost depth requirement for foundations/footers. Group says the frost depth was once 30 inches and worked well for the area. The substrate in the area provides for good drainage, and frost risk is minimal. Requested more information on the study behind this move to the deeper depth.
 - Group unaware of any foundation issues at 30 inches; at 48 inches, getting to needs for blasting; lots of rock and sturdy ground here; not sure why the Town went to this level
- RECOMMENDATION: Investigate whether possible to provide engineering support for requests contrary to building code, to handle this exception administratively rather than requiring a full variance.
- RECOMMENDATION: Update to the 2008 National Electrical Code (NEC) rather than the 2014 NEC, as the 2008 NEC provides a good level of additional safety without high costs that come with newer codes. Also, the Town's inspectors, SAFEbuilt, are most familiar with the 2008 NEC requirements.
 - Bradley -- 2008 NEC to today changes were the big ones (went to arc fault for general living areas) – don't know that SAFEbuilt is all up on the new changes, even the case with State electrical inspectors and Boulder County inspectors
 - Mostly of concern is the arc fault requirements
 - Might consider updates later, with more knowledge by inspectors, etc.
 - Costs are going up tremendously with new codes – extra \$2K to \$3K in new requirements and not for benefits Bradley can see but recognizes don't know all the changes so far; getting cost-prohibitive to do things
- RECOMMENDATION: Take care with adoption of newer energy efficiency codes (2012), as it becomes a trade-off between relying upon natural and mechanical ventilation. Whole house mechanical ventilation, introduced with the 2012 IECC, comes with its own issues, e.g. failure of the system, rendering the home generally uncomfortable, etc.
 - Look at ways to meet goals but not go to full requirements (e.g. that would trigger whole house ventilation).
- RECOMMENDATION: Offer Town incentives for exceeding efficiency measures required by code in order to encourage higher levels of efficiency without mandating them.
- RECOMMENDATION: Review requirements for water service line materials – could we use plastic instead of copper. Town code requires copper while wells, etc. allow for plastic.
- RECOMMENDATION: Lighting requirements – in the 2012 IECC (energy code), 75 percent of all lighting must not be incandescent. The trigger for compliance should be at new build or 20 percent or more alteration (as referenced in N.M.C. Sec. 18-5, triggering additional building code compliance).
- RECOMMENDATION: Soffit vents should be permitted, with proper screening.

- RECOMMENDATION: The Town had been considering updating to the 2009 ICC Codes, as of 2011, but is now considering a move to the 2012 ICC Codes, based upon advice of SAFEbuilt. Given that there is no significant difference between the 2009 and 2012 codes, the Town should adopt the 2012 codes but not mandate fire sprinkler systems except in commercial building and ERVs.
- RECOMMENDATION: Any building and trades professional who works on a job in Nederland should have a Town business license. All workers on a job (including sub-contractors) should be identified and then have to pull a business license with Town.
- ✓ INFO NEEDED: Question remaining regarding the 2012 code requirement for drywall to be added around floor joists and crawl spaces – how does this impact fire protection? The group referenced the R501.3 (fire protection of floors) deletion in the Windsor code. Supports deletion in Nederland code.

Cost Considerations

- Group discussed on a number of occasions the cost impacts of new code requirements, including sprinkler systems, energy efficiency requirements, etc.
- Taylor proposed the idea of remaining with current code and offering amendments to incorporate certain new codes based upon proven technologies, studies or similar data.

Specific Issues

Affordable Housing Considerations

- RECOMMENDATION: Review Code to promote affordable housing, e.g. minimum size of 750 square feet for units, as well as accessory dwelling units. Recommend change to 500 minimum square feet and maximum of 1,000 square feet (limit size for ADUs, with 2 BD), as long as it is built to building code. (Could consider lack of minimum sizes).
 - Recommend allowing for shared utilities on ADUs (with main home/use) are investigated to reduce the cost of building such housing.
 - Reference Accessory Dwelling Unit codes from Boulder, Portland, and Lyons.
 - These concepts are necessary because the Town doesn't have a lot of land mass and folks need places to live.
- RECOMMENDATION: Explore cabin zoning concept – 800- to 1,200-square foot units being suggested by Norris Design.
- RECOMMENDATION: Review Zoning Code regarding the allowance of efficient building materials, e.g. SIPs panels, recycled shipping containers, and other pre-manufactured options. Include reference to options also for framed building in efficient manner, as well as insulation options to increase energy efficiency.
- RECOMMENDATION: The Town should clarify goals for mixed-use developments related to sustainability and walkability and adjust the code to reflect these goals, e.g. parking and drainage requirements.

Driveway Specifications

- RECOMMENDATION: Changes to N.M.C. Sec. 11-70 Private Driveway Standards:
 - Point 10 – group recommends use of native materials/on-site/other suitable materials for driveway surfacing rather than requiring Class 6 road base (3/4-inch minus), unless no suitable on-site material is available.
 - Points 12 and 13 should be reviewed, appear to be the same
 - Point 13 – recommends change of 6% maximum grade for 50 feet to same for 30 feet for driveway
 - Point 14 – recommends definition of the turning radius, clarifying whether this is inside or outside the turn; recommends it be measured at the centerline of the road and clarify this definition, as an inside measurement of 40 feet would require major excavation and outside might be too tight.
 - Point 16 – recommends definition of historic drainage flows and how/by whom these are identified
 - Point 18 – recommends deletion, as Town routinely does not maintain driveways
- POLICY QUESTION: Should the driveway specifications appear in the new infrastructure construction specs?
 - Look at code related to existing driveway and requirements for standards to fix driveways with major permits (alterations, etc.). How do we deal with properties with steep driveways and still deal with off-street parking and drainage issues, if they want to do additional development on their property?

Hillside Development Requirements

- RECOMMENDATION: Change N.M.C. Sec. 18-2, 106.2.1 to read “licensed architect or engineer of record” instead of “responsible architect”.
- RECOMMENDATION: Change N.M.C. Sec. 18-5 (3), 4 to read that an SRU certificate is required for development of 10,000 s.f. or more, which is the current SRU requirement per N.M.C. Sec. 16-60.
- RECOMMENDATION: Create definition of a “hillside area”.

Ignition-resistant Building Materials

- RECOMMENDATION: Review Boulder County codes for fire mitigation and ignition-resistant materials. Need to address wildfire materials in general, because only vaguely addressed in Town Code.
 - This is standard practice now – Gilpin County has an incentive program for this.
 - Would be nice to offer an incentive for these materials, etc. If you want to do better than requirements, we can offer break on permitting fees, etc.
- RECOMMENDATION: Require rock, cement, metal (or like) wainscoting on buildings and 3 to 4 feet worth of rock around a house.

Marijuana Cultivation

- RECOMMENDATION: Develop standards and limits for marijuana cultivation licensees related to water use, energy use, electrical and building safety, ventilation, chemical byproducts, etc.
 - Suggested requiring licensed cultivators to buy into Xcel alternative energy program, install a water recycling system, LED lights, etc.
 - Could look at including a special charge in the water utility rates for going over a certain gallonage use limit.

Permitting Issues

- RECOMMENDATION: Review requirements for topographical surveys, as well as grading and drainage plans, to streamline permitting requirements related to residential development particularly.
 - Examine the possibility to meet the intent of a site plans without professionally engineered plans – how else can this be done?
- RECOMMENDATION: Create definition of “steep” lots, which would require engineered site plans.
- RECOMMENDATION: Establish Town policy related to asbestos abatement requirements, based upon asbestos inspection reports and landfill acceptance. Review State and current Town requirements for clarity.
- RECOMMENDATION: Draft a comprehensive addendum to the Code that includes all changes to the building code, as well as Firewise, drainage and other related requirements.
- RECOMMENDATION: Set permitting turnaround goal at two weeks.
 - Offer same-day permitting for subcontractors.
- RECOMMENDATION: Offer pre-permit code meetings on commercial and multi-family projects (e.g. with SAFEbuilt) to ask questions (recommended hourly charge for this service).
- RECOMMENDATION: Clarify requirements for design standards, landscaping requirements, and consultant fees.

Sprinklers

- RECOMMENDATION: Encourage installation of residential sprinklers in new homes, but do not mandate their installation.
 - The requirement for residential sprinkler systems was discussed in-depth by the group, which concentrated primarily on the 13R standard for sprinkler system design and installation.
 - Group supports educational info regarding proper use of wood stoves and disposal of ashes, as many fires start due to these issues.
 - The group discussed the average cost per square foot of installing sprinklers in new homes. Costs are much higher in the mountains, where tanks and pumps are often needed to support the system with water pressure, putting

the cost at about \$3 to \$5 per square foot. The group estimated approximately \$15,000 to \$25,000 additional for a building project.

- Fire Department cautioned that sprinklers could assist in saving homes in light of poor building materials in older homes (on permits for additions), low water pressure, steep driveways, and limited firefighting resources. Homes built to new code standards are less at risk.
- RECOMMENDATION: If residential sprinklers are mandated, they should be required only in new construction or at 20 percent or larger footprint alterations/expansions.
- ✓ INFO NEEDED: Additional data on needs for water quantity, pressure, etc. for sprinklers. Need to gather info regarding what other communities are adopting, e.g. for the trigger point for sprinkler installation requirements.

Wildfire Regulations

- ✓ INFO NEEDED: Dirr said the biggest thorn in fire code adoption is maintenance – it's good in the beginning (mitigation) but over time, properties are not well-maintained for defensible space. Local amendments could require maintenance, with inspections by the fire department. The 2012 fire code offers updated wording regarding stronger authority for the fire department to prohibit prescribed burns during unsafe conditions. The Fire District will send amendments to the group offered by local fire departments related to these issues.

Influence of the Comprehensive Plan

The plan encourages infill development in a thoughtful manner, building to the highest feasible standards of energy efficiency and environmental sensitivity.

Specific action items/policies in the Comprehensive Plan related to this effort include:

- Promote a range of desirable and affordable housing options in Nederland, such as through encouraging mixed use development downtown and higher density residential units within walking distance of the town core.
- Encourage the design of new housing to fit the personality and character of Nederland, which is admittedly enigmatic and eclectic. Appropriate scale, context to surrounding properties, harmony with the natural environment, and use of sustainable building practices and materials are all attributes to promote.
- Promote a compact, sustainable land use pattern in Nederland that emphasizes infill and redevelopment of existing developed land, is well-connected and encourages decreased auto-dependence, incorporates green building technologies, and is in harmony with the natural environment and character of the community.
- Require that any proposed land use or development must identify hazardous areas, i.e., floodplains, drainage areas, steep slopes, and geological hazards and with intention to either avoid those areas altogether or in some cases, where feasible, mitigate those hazards.
- Discourage light pollution that interferes with dark skies and the character of town. Exterior lighting should be at a minimum for safety and security. Update and enforce the Municipal Code as it relates to downward indirect lighting in residential and commercial districts.

- Encourage infill development and redevelopment as the primary response to growth in Nederland. Such projects must be careful to consider the context of surrounding properties, which might be rustic, historic, and small in scale.
- Require new construction permits to begin with meetings with Town staff to identify any potential inconsistencies with the *Comprehensive Plan*, *Zoning Code*, and other relevant policy documents prior to formal development review by the Planning Commission.
- Protect natural drainageways, prevent erosion, minimize impacts of storm drainage and flooding on private and public property, and maintain surface water quality by reviewing development within the flood zone and riparian corridors. Consider the use of focused infrastructure improvements where the greatest hazards exist. Encourage the installation of indigenous plant materials, and the removal of dead or diseased trees to improve drainage conditions to prevent erosion throughout Nederland.
- Update the Town Municipal Code to reflect the guidance of the Future Land Use Map, encouraging focused development and redevelopment of mixed use and multi-family housing projects. Update Town development regulations and zoning codes to align with the policies and objectives of this plan, and to provide regular code enforcement.
- Identify incentives for improving energy efficiency (e.g., new windows, solar panels, etc.).
- Explore creative housing concepts to meet the community's affordable housing needs, including small-scale housing (e.g. cabin zoning concepts), accessory dwelling units, multi-generational development, etc. Review the Town zoning code to prepare for changes to allow for such concepts.
- Review Town codes for any barriers to high-efficiency building materials, e.g. pre-manufactured panels, etc.

Town of Nederland Board of Trustees Regular Meeting Minutes February 18, 2014 7:00 PM

Nederland Community Center
750 Hwy 72 Nederland, CO 80466

A. CALL TO ORDER

Meeting convened at 7:01 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Trustees Randy Lee, Peter Fiori, Chris Perret, and Ledge Long.

Absent: Mayor Pro Tem Kevin Mueller and Trustee Annette Croughwell.

Also present: Alisha Reis, Town Administrator, Eva Forberger, Town Treasurer, and Michele Martin, Town Clerk.

C. CONSENT AGENDA

- Approval of February 18, 2014 Accounts Payable, Schedule A.
- Approval of February 18, 2014 Accounts Payable, Schedule B.
- Approval of February 4, 2014 Regular Meeting Minutes.
- Approval of Frozen Dead Guy Days (FDGD) Public Property Lease Agreement renewal.

Trustee Lee asked to pull the FDGD Agreement from the consent agenda for discussion.

Motion to approve the Consent Agenda, Schedules A and B and the regular meeting minutes from February 4, was made by Trustee Perret, seconded by Trustee Fiori and passed unanimously.

served an additional 110 clients per month. She said statistically, the Nederland Food Pantry serves 25% of the working poor in Boulder County. She encouraged everyone to attend the event this Sunday from 2:30-6:30 PM.

The Board was unanimous in their decision to grant the full fee waiver.

Motion to approve the fee waiver request for the Nederland Food Pantry for their Stone Soup Fundraiser, was made by Trustee Perret, seconded by Trustee Fiori and passed unanimously.

I. DISCUSSION ITEMS

1. Consideration of an ordinance to update the building codes to 2012 (IRC, IBC).

Reis introduced the item. The Board had considered updating the building codes before in August of 2012, from the 2006 version to 2009. At that time the Board decided to wait until after the Comprehensive Plan was adopted before looking at building code upgrades. The Comprehensive Plan was adopted in the late fall of 2013. Reis said that since this is considered adopting a code by reference, the process is to first have the ordinance introduced to the Board, and then schedule a public hearing for it to be considered for adoption. This is the introduction, and the public hearing is tentatively scheduled for May 20, for the ordinance to become effective July 1. Reis said that staff recommends adopting the same ancillary hillside development and wildfire zone codes.

Chad Johnson, SAFEbuilt Building Official, was present to discuss some of the primary differences. He recommends adopting the 2012 International Codes along with the 2014 National Electrical Code (NEC). He said that municipalities should stay within a code cycle, lagging too far behind causes too much confusion.

Trustee Fiori questioned the refund section, as to why it would be based on a percentage rather than a fixed rate. Reis said staff can review that prior to the public hearing.

Trustee Lee had several questions, which Johnson answered. Reis said that prior to adoption, staff plans to hold a building and planning 101 Course as a public outreach, with plans to invite realtors, contractors, architects, engineers, and the public.

Mayor Gierlach emphasized the fire hazard of where we live. He suggested a Mayor's Task Force to consist of local contractors, professionals and folks familiar with the Comprehensive Plan to weigh in on these proposed changes, such as sprinklers, ventilation, combustible

materials, and tree mitigation and to advise what would be most beneficial to Nederland rather than what the 2012 International Building Code (IBC) generically covers. The Board was in favor and Reis said staff would coordinate that.

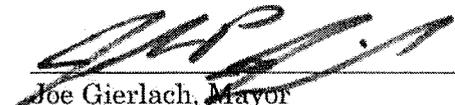
Johnson said the Town does have the option to opt out of certain regulations such as sprinklers and ventilation. He said there are also options of listing fire resistant materials and paints, such as Contego Fire Retardant Paint, into the ordinance.

J. OTHER BUSINESS

K. ADJOURNMENT

Motion to adjourn was made by Trustee Perret, seconded by Trustee Lee, and approved by unanimous voice vote. The meeting was adjourned at 9:46 PM.

Approved by the Board of Trustees.



Joe Gierlach, Mayor

ATTEST:



Michele Martin, Town Clerk



From: Kevin Mueller <kevinlmuller@gmail.com>
Sent: Tuesday, July 15, 2014 8:21 PM
To: BOT@nederlandco.org; Alisha Reis
Subject: Code Updates

Mayor's Task Force on Building Code Updates

- Recommend focusing on energy efficiency and resource utilization (or is this included at the end of 6...and other actions?)
- Recommend adopting code similar to Boulder County Build Smart that allows for prescriptive and performance path code compliance with minimum performance criteria that goes above and beyond International Code compliance and is more suited to our environmental conditions and sustainability goals.

Scope: BuildSmart serves the County's stated goals of promoting and encouraging high performing, sustainable residential development and redevelopment in the unincorporated areas of Boulder County by: Promoting development that will create energy efficient structures that reduce both the production of greenhouse gases from residential buildings and the amount of material sent to landfills; Conserving water and other natural resources in the homebuilding process; and insuring proper indoor air quality. BuildSmart also furthers the goals and measures outlined in the Colorado Climate Action Plan and the County's Sustainable Energy Plan. The production and efficient use of energy will continue to play a central role in the future of Colorado and the nation as a whole. The development, production, and efficient use of renewable energy will advance the security, economic well-being, and public and environmental health of Colorado, as well as contributing to the energy independence of our nation. The 2010 revision to BuildSmart includes both a performance and a prescriptive option for compliance, providing additional flexibility in selection of the most cost-effective design for each project.

- Next Steps
 - Recommend obtaining input from professionals with experience in drafting and implementing high performance building code.
 - How can we go above the minimum requirements of the International Code to really affect our building stock for future generations? (refer to scope above)
- Cost considerations:
 - First cost of cost of ownership?
 - Mentions offering amendments based upon proven technologies, studies or similar data. When can we expect these amendments that help us become more sustainable?
- Affordable Housing
 - Increasing energy efficiency of rental units helps address affordable housing issue, i.e. cost to heat a leak shack.
 - Recommend developing program that results in increasing the efficiency of rental units similar to City of Boulder.
- Driveway Specifications/hillside development
 - Recommend utilizing the Life's Design Principles for Water (provided by the EPA's biomimicry professional) that focuses on addressing collection, storage, distribution, use and filtration of water through natural means and use of natural systems.
- Marijuana Cultivation
 - Mention focus on safety, but recommendations appear to only consider energy efficiency.
 - Recommend having Safebuilt review the current code and list out sections that pertain to installation of cultivation facilities (electrical, plumbing, ventilation). Then develop a process in which the Town can coordinate with and assist all cultivation facilities to become safe and code compliant.
 - Recommend holding off on efficiency/performance regulations. Xcel and the City of Boulder are already analyzing the process and identifying potential cost effective upgrades and incentives.

- Regarding water: will this type of charge to promote water conservation be included in our rate study and would it not apply to all users, not just cultivators?
- Permitting:
 - What is intent of allowing same day permitting to sub contractors?
- Regarding Influence of Comprehensive Plan
 - Recommend adding explanation on how selected recommendations satisfy the policy stated in the comprehensive plan.

From: Kevin Mueller <kevinlmuller@gmail.com>
Sent: Tuesday, July 15, 2014 8:37 PM
To: BOT@nederlandco.org; Alisha Reis
Subject: code updates

The below highlighted policy does not appear to be addressed in the recommendations provided.

Influence of the Comprehensive Plan

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Specific action items/policies in the Comprehensive Plan related to this effort include:

- Promote a range of desirable and affordable housing options in Nederland, such as through encouraging mixed use development downtown and higher density residential units within walking distance of the town core.
- Encourage the design of new housing to fit the personality and character of Nederland, which is admittedly enigmatic and eclectic. Appropriate scale, context to surrounding properties, **harmony with the natural environment, and use of sustainable building practices and materials are all attributes to promote.**
- Promote a compact, sustainable land use pattern in Nederland that emphasizes infill and redevelopment of existing developed land, is well-connected and encourages decreased auto-dependence, incorporates green building technologies, and is **in harmony with the natural environment** and character of the community.
- Require that any proposed land use or development must identify hazardous areas, i.e., floodplains, drainage areas, steep slopes, and geological hazards and with intention to either avoid those areas altogether or in some cases, where feasible, mitigate those hazards.
- Discourage light pollution that interferes with dark skies and the character of town. Exterior lighting should be at a minimum for safety and security. Update and **enforce the Municipal Code as it relates to downward indirect lighting in residential and commercial districts.** (Have we utilized the code enforcement to observe night time foot candles/lumens readings?)
- Encourage **infill development and redevelopment as the primary response to growth in Nederland.** Such projects must be careful to consider the context of surrounding properties, which might be rustic, historic, and small in scale.
- Require new construction permits to begin with meetings with Town staff to identify any potential inconsistencies with the Comprehensive Plan, Zoning Code, and other relevant policy documents prior to formal development review by the Planning Commission.
- Protect natural drainageways, prevent erosion, minimize impacts of storm drainage and flooding on private and public property, and maintain surface water quality by reviewing development within the flood zone and riparian corridors. Consider the use of focused infrastructure improvements where the greatest hazards exist. Encourage the installation of indigenous plant materials, and the removal of dead or diseased trees to improve drainage conditions to prevent erosion throughout Nederland.
- Update the Town Municipal Code to reflect the guidance of the Future Land Use Map,

encouraging focused development and redevelopment of mixed use and multi-family housing projects. Update Town development regulations and zoning codes to align with the policies and objectives of this plan, and to provide regular code enforcement.

- Identify incentives for improving energy efficiency (e.g., new windows, solar panels, etc.).
- Explore creative housing concepts to meet the community's affordable housing needs, including small-scale housing (e.g. cabin zoning concepts), accessory dwelling units, multi-generational development, etc. Review the Town zoning code to prepare for changes to allow for such concepts.
- Review Town codes for any barriers to high-efficiency building materials, e.g. premanufactured panels, etc.

Alisha Reis

From: rich tillotson <handmade@indra.com>
Sent: Saturday, July 12, 2014 9:19 AM
To: alishar@nederlandco.org
Subject: task force recommendations

Alisha,

I really cannot think of anything additional to add, but simply a few points to emphasis from the discussions I was involved with:

Pg. 2 – Frost depth: bring back in line with Boulder County 30” depth requirement which has not been an issue for decades. Especially with our predominantly weathered rock, colluvial and alluvial substrates. Boulder County had the appropriate engineering studies made to establish the 30” frost requirements.

Pg. 2 – I believe what we recommended was move with the 2009 IECC and not to the 2012 IECC. 2009 has totally adequate energy requirements without the mechanical ventilation requirements for residential.

Pg. 6 – “Steep lots”- In my experience anything above 40% (40 foot rise over a distance of 100 foot run) is difficult to walk. So starting point for discussion may be : 40% for more than 100 foot distance to define “steep”.

Pg. 6 – Residential sprinkler issue: Not to be made a requirement for new single family residences , but only perhaps a recommendation. Because:

- 1) New structures are not the problem due to the high level of building safety codes now in place
- 2) Fire resistant materials and fire mitigation principles further reduce likelihood of large house fires
- 3) Multifamily structure (including duplexes) are more of an issue for life and safety reasons

Thank You for the opportunity to be involved in this important process.

Rich Tillotson