



Nederland Planning Commission

AGENDA

Wednesday, December 1st, 2010 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

- 1) Call to Order
- 2) Roll Call
- 3) Approval of minutes from October 27, 2010
- 4) Action Items
 - a. Lot Line Dissolution – 590 Lakeview Drive (Lot 5, Big Springs Park PUD)
- 5) Discussion Items
 - a. Nederland Comprehensive Plan
- 6) Other Business
 - a. Staff Update re: Chicken Ordinance
 - b. Member Update
- 7) Adjournment



Nederland Planning Commission

MINUTES

Wednesday, October 27th, 2010 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

The Chairman called the meeting to order at 7:10 PM.

2) Roll Call

Present: Commissioners R. Cornell, D. Jackson, M. Osterloo,
Chairman B. Martin.

Absent: Commissioner D. Mueller and Trustee K. Mueller

3) Approval of minutes from July 21, 2010

The motion to approve the minutes was made by Commissioner Cornell, seconded by Commissioner Osterloo and unanimously approved with Commissioner Cornell abstaining as a new member.

4) Action Items

a. Final Plat - Titterington Estates, 4-lot subdivision

Town Administrator Alisha Reis introduced the item, which came in front of the Commission in March of 2010 as a preliminary plat. At that time, the Commission recommended a preliminary approval subject to a number of proposed conditions. The final plat incorporates those conditions recommended by the Commission. Town Staff recommendation is for approval as the application meets all code & zoning requirements.

The Commission reviewed the conditions previously noted and how those issues were mitigated by the applicant. Commissioner Martin noted that it's good to see final plats come back for review to the full Commission rather than him as Chair alone.

Ed Ranegar, the applicant and owner of the property, confirmed there were no changes from preliminary plat to final. He was

pleased with his experience working with Administrator Reis in the final phase of the project and noted that the BOT complemented the Commission for their work when the preliminary plat was in front of them.

A motion to approve the final plat was made by Commissioner Jackson, seconded by Commissioner Cornell and approved unanimously.

b. Special Review Use Application - Public hearing for a short term RV, tour bus & construction vehicle parking at 171 & 173 West First Street

Administrator Reis introduced the item, stating that aside from the required special review use component, the proposal meets the other requirements of the zoning district. She will present Staff comments as well as those from the DDA, who would appreciate the opportunity to review projects in their district in the future.

Staff comments and recommendations included:

- 1) Addressing the lack of ingress & egress identified on the plat
- 2) The refuse area should be screened to keep it looking nice
- 3) A designated snow storage area
- 4) Designated drainage
- 5) While zoning only requires lots of 20+ spaces to be paved, perhaps consider paving the lot as it is targeted to large vehicles.

Administrator Reis reported that the DDA very much supports the plan. Their comments included:

- 1) A desire to see a more detailed site plans, including material for parking and as well as more detail regarding the booth for check-in
- 2) A better understanding of the maintenance and operations dynamics, including security, staffing & vendor sales.
- 3) A recommended 14-day maximum stay rather than the proposed 30 days.

Administrator Reis suggested that the DDA submit formal written comments in the future. Chairman Martin agreed that it's a good idea for the DDA & the Commission to work cooperatively and with an open dialogue. Commissioner Cornell noted that Commissioners should usually be hearing things for the first time at PC meetings and it could be problematic if there's a preliminary public meeting

(such as the DDA's) where things are previously discussed. He asked for guidance from Staff about how this process should work to avoid concerns of pre-judgment or conflicts with the sunshine laws.

Applicant Ron Mitchell (75 E. 1st St.) addressed the Staff concerns, explaining that each two spaces would come straight in from Jackson Street and would be delineated with plastic flower planters. He will work with Qwest and will have a separate entrance for trash trucks. He may use one spot for snow removal but doesn't anticipate much use in the winter. Mr. Mitchell noted he is no longer on the DDA but that the DDA recommended the idea to generate more business and believes it fits with the comprehensive plan. He would prefer to hold off on paving and see if it's an issue in the long run. A maintenance supervisor – Rob Vigil – will visit the site 2-3 times per day and make sure the site stays clean and address any issues. Mr. Mitchell's position is that RV parks fit under hotel/hospitality laws, so he will have rules to encourage visitors to be reasonable and considerate. A graduated pricing plan will encourage shorter stays. He & his manager will handle complaints from neighbors. He admitted that this may not be the highest & best use for property, but he sees this as a test. He would entertain the idea of Eldora employees staying longer in winter. His primary concern is getting along with the neighbors & making sure there are no issues there.

Chairman Martin noted his questions of conformity with the comprehensive plan, if it's the best use of the property and how long a trial period might last. He asked about demand; Mr. Mitchell replied that he had no idea, but that DDA members encouraging him to do it believe there will be demand and that the DDA has offered to pay for signage to direct people to the site. The Commission discussed the adjacent land uses, noting that the adjacent residences are zoned Central Business District.

The meeting was opened to Public Comment:

Cheryl Fanelli (184 Hwy 72) owns two of the three properties that border the property in question and stated that Mr. Mitchell never talked to her about the idea. She believes the location is not ideal as it is in the center of Town, and is concerned about buses, generators, drainage, property values, high fences and the overall impact on the area.

Public Comment was closed. The Commission had an extended discussion on a number of points, including:

- Issues of density with 16 spaces on a lot of that size.

- Duration of stays, whether a month is too long, and the appropriateness of extended stays in the winter.
- The appropriateness of this use for the space.
- The dynamics of RV parking vs. short-term parking for buses and commercial vehicles.
- Concern over conflicts with neighbors and the lack of money for code enforcement.
- The desire for the space to generate benefits for the Town on a year-round basis.

Mr. Mitchell clarified questions re: electricity, water, sewer and generators. Commissioner Jackson argued that some Staff recommendations don't apply to this SRU. She is inclined to approve the application given her belief that there is a need for RV parking. Commissioner Osterloo recognized the need for parking, but feels that most RV lots resemble campgrounds and would prefer to see something else at this site. Commissioner Jackson noted that Mr. Mitchell is responding to the direction the Commission gave him previously to look to commercial zoning for this project. Chairman Martin raised the idea of dividing the space into delineated short-term & long-term parking. Administrator Reis noted that long-term winter stays for Eldora employees borders on mobile-home use and is not allowed in the area.

Mr. Mitchell addressed the dynamics of vehicle movement and privacy fencing and confirmed that enough electricity would be provided that generator use would be minimal. His belief is that RV users are a considerate group of people so issues with neighbors would be few. He reiterated that he is against a campground vibe and wants to encourage shopping in town, and give ski and tour buses a place to park so visitors can do so. The space could also be used as vendor parking for large events. He promised to work to make it functional for the Town and fit with the downtown plan. His belief is that the survival of the Town is based on tourism & events and wants to support this.

The Commission generally agreed that is important to avoid the 'campground' dynamic, that 16 RVs in the space would be too much, and that any proposal should be approached on a trial/temporary basis with the opportunity for a yearly or seasonal review. Commissioner Jackson questioned whether the code permits time-based limits on this sort of approval. Administrator Reis stated that as a conditional use, the Commission and the BOT have the ability

to place time restrictions on the use. Chairman Martin confirmed that the Commission has done so in the past.

The Commission requested a revised and improved proposal, including the following:

- A more detailed site plan, including
 - o the surrounding land uses
 - o the look and feel of the infrastructure (kiosk, etc)
- A response to the Town staff's five comments, except for item #5 related to paving
- More information on operations and the management/ staffing plan
- The set of proposed rules
- A 14-day maximum stay
- A maximum of 8 RV spaces, plus short-term day use
- No idling engines or generators
- A screening fence along the north boundary
- Explanation of the water/sewer layout
- No exterior lighting
- A screened dumpster
- Information on the process of neighbor notification & a list of neighbors within the 300-foot boundary
- Annual or seasonal review by the Commission

A motion to continue the hearing after seeing a revised proposal incorporating the Commission's suggestions was made by Commissioner Osterloo, seconded by Commissioner Cornell and unanimously approved.

5) Discussion Items

a. Consideration of Municipal Code change to allow chickens in Town

Deputy Clerk Kristen Edwards introduced the item, which was first discussed at the July 21st Planning Commission meeting. At that time, the Commission discussed the materials provided by Town Clerk Teresa Myers and directed her to do additional research. Clerk Myers did so and circulated a memo with her findings; she is recommending that the ordinance generally be based on one from the City of Longmont, but had some suggestions and questions about making it specific to Nederland. Clerk Myers is looking for further

direction from the Commission so as to generate a draft ordinance for review.

The Commission addressed the questions raised in Clerk Myers' memo:

- 1) The Commission approved a minimum of 4 square feet per chicken.
- 2) Per her past experience with a similar situation, Administrator Reis proposed 15 feet as a reasonable setback. The Commission discussed how that might cause issues in high-density areas and debated the pros and cons of various setbacks. The Commission agreed upon a 10-foot setback to the side or property line and a 6-foot setback from any other structure.
- 3) Commissioner Cornell noted that some ordinances include approval from the adjacent neighbors as a part of the application process; the Commission agreed to ask Staff to look into that idea.
- 4) The Commission discussed the various ways to arrive at a limit on the number of permits, including basing it upon a percentage of the population or restricting it by neighborhood, and whether or not it is necessary to have a maximum number at all.
- 5) Commissioner Cornell raised the issue of how chickens could impact people differently in different neighborhoods/zones and emphasized that the ordinance & criteria should protect the neighbors who don't want chickens right in their backyard. The Commission debated pros and cons vis-à-vis different zones and requested that the draft be for residential zones only (not commercial), although some Commissioners were undecided on that point.
- 6) The Commission agreed on the importance of having a draft ordinance out in the community for a period of time and allowing residents significant time for feedback and suggestions.

The meeting was opened to public comment.

Ron Mitchell (75 E. 1st St.) suggested that chickens be allowed to be slaughtered in the yard with stringent rules about the disposal of remains. He also suggested that the Commission consider including rabbits in the ordinance.

Kathleen Chippi (Magnolia Star Route) believes the 4-chicken limit is not enough and suggested 6-10. She agreed that slaughtering the

chickens should be permitted and supports chickens in residential areas for the eggs and the meat.

Rob Vigil (50 2nd Street) is OK with residents on large properties outside of Town having and slaughtering lots of chickens, but thinks there should be a limit of approximately 6 chickens for eggs only within Town limits.

Ron Mitchell proposed that residents in commercial zones have the right to ask for an exception to the zoning restrictions.

Commissioner Cornell asked Staff to investigate pros & cons of slaughtering, as the disposal of remains is a key health issue in residential areas. The Commission would like the draft to include controlled slaughter but noted that they're looking for feedback/more information from Staff on that issue in particular.

The Commission suggested adding that renters need the owner's permission or a lease stating that chickens are allowed to be raised on the property.

The item was tabled until after the draft ordinance is circulated and there is time for review and public comment.

b. Review of the working draft of the Town's medical marijuana ordinance as written by the Mayor's Task Force on Medical Marijuana.

Trustee Chris Perret, Chair of the Medical Marijuana Task Force, introduced the item, explaining that the meeting packet included the current working draft of the ordinance.

Chairman Martin asked about changes at the State level. Trustee Perret explained that lawyers are still working things out, but the draft included language that addressed known changes to date. Administrator Reis explained that Clerk Myers and the Task Force are looking for the Commission to weigh in on things along the way as the ordinance is developed, given the size and complexity of the issue. Deputy Clerk Edwards confirmed that Clerk Myers wanted the Commission to see the entire draft ordinance for context but that she's looking for feedback mostly on the planning and zoning-related sections that are emphasized in the summary memo.

Commissioner Cornell questioned whether marijuana businesses should be an industrial use (pg. 17b) and wondered if it was appropriate in Neighborhood Commercial as well. The Commission was confused as to which of the three types of businesses are addressed in which parts of the ordinance. It was noted that growing for individual use is not a business and so would be regulated and governed by current zoning laws.

Trustee Perret explained that Nederland's commercial district is approximately 1,000 x 1,000 feet, so the State's suggestion of a 1,000-foot separation between MMJ businesses and schools/day care centers/etc. doesn't work in Nederland. The Task Force started with the idea of a 100-foot separation, and has put together the draft ordinance by taking pieces from other towns' ordinances. The draft has not yet gone before the Town Attorney and is a work in progress that mostly addresses the dispensary aspect. The Task Force has just begun to address the grow operations and has not yet worked on the infused product component.

Chairman Martin emphasized that to the extent that the businesses are commercial & industrial ventures, they should be regulated as such. It's not the place of the Commission to regulate private homes or growth for personal medical needs and it should be a code enforcement issue to address rental issues or auxiliary impacts in residential areas. The Commission should focus on businesses in commercial areas and what the logical number or threshold on each type of business should be. He agreed that the 100-foot limit seemed reasonable.

Commissioner Osterloo voiced her opinion that there shouldn't be a 100-foot limit at all and that the dispensaries shouldn't be more regulated than any other business.

After further discussion on some of the particulars of the topic, the Commission agreed that the primary issue is the threshold number of dispensaries in Town. The Commission is generally OK with the draft for now and looks forward to seeing the next draft.

Commissioner Cornell reiterated his confusion about the types of MMJ businesses (grow/center/etc). A discussion ensued about how the different types of marijuana businesses fit in different zoning districts and how MMJ businesses will largely be regulated by the current zoning codes and restrictions just like other businesses. It was suggested that the different types of MMJ businesses be clearly

separated in distinct groups to fit with current zoning regulations and fit in context with what is currently in the code.

The meeting was opened for public comment.

Ron Mitchell (75 E. 1st St.) went through an extended and detailed list of issues he had with the current draft of the ordinance, including what he considered to be constitutional issues and things that conflict with State law.

Chairman Martin reminded the group that this is the venue to focus on issues of planning and zoning.

Kathleen Chippi (Magnolia Star Route) thinks that a 22-page ordinance regulating medical marijuana is overkill for a community that recently decriminalized recreational marijuana use. She detailed a number of specific concerns related to definitions in the ordinance. She believes that the current regulations on business deal with all issues of lights, noise, signage, etc. and that the Task Force's sole concern should be to deal with the 1,000 foot issue. She reiterated that medical marijuana businesses should be treated just like any other business in Town. As an example, she doesn't like the smell of coffee or meat being cooked, but those businesses aren't regulated as to smell so neither should be a dispensary that smells like cannabis.

Chairman Martin wondered if we're going too far too fast ahead of things in a changing environment that will just make the Town have to go back and change things again. He thought Ms. Chippi's odor analogy is an interesting one and wondered if we're unfairly subjugating MMJ businesses based on social stigmas. He suggested being watchful of unnecessarily regulating businesses and not over-thinking things if there are already relevant regulations in place.

c. Nederland Comprehensive Plan

Commissioner Cornell talked about the dynamics of the last round of the Visioning process in 2000, noting that there wasn't a coordinated effort between the Peak-to-Peak Communities group and the BOT. Subsequently, when the Planning Commission worked on the Comprehensive Plan, there were issues because things didn't tie into the visioning plan. The disconnected nature of the process led to bitterness & frustration. He acknowledged that the current Board is working much more in conjunction with the Envision 2020 group,

but wondered how the comprehensive plan process ties in. Commissioner Osterloo likes the idea of collaborating with the Envision 2020 group but noted that visioning process is not confined to considerations within Town limits. She suggested that the Commission move forward with the comprehensive plan as it relates to Town residents, but shouldn't tailor the plan to the visioning process. Administrator Reis reported that her interpretation of the Trustees intent is that they want it the other way around and that things like the comprehensive plan should flow from the visioning process. She offered to get clarification from the BOT and will ask for written direction on the matter. The group agreed it should be a cohesive process and avoid the disconnection issues of the past, but that they are two separate documents that stem from different directives and serve two different purposes.

6) Other Business

There were no other business items.

7) Adjournment

The motion to adjourn was made by Commissioner Jackson, seconded by Commissioner Osterloo and unanimously approved at 10:07 pm.

Approved by the Planning Commission,

Bill Martin, Chair, Planning Commission

ATTEST:

Kristen Edwards, Deputy Town Clerk



**AGENDA INFORMATION
MEMORANDUM
TOWN OF NEDERLAND
PLANNING COMMISSION**

Meeting Date: December 1, 2010

Initiated By: /s/ Alisha Reis
Dept: Planning & Zoning
Action X Discussion

AGENDA ITEM:

Lot Line Dissolution – 590 Lakeview Drive (Lot 5, Big Springs Park PUD)

SUMMARY:

Applicants Ben and Elizabeth Dereume and Steven Taormina have submitted a request for lot line dissolution for a vacant lot between their properties in the Big Springs Park PUD, to be considered under Nederland Municipal Code Section 17-73 Dissolution of interior lot lines. The proposed plats for the dissolved lot lines are in conformance with general subdivision requirements, outlined in Articles II and III of the Municipal Code, including access to a public street and conformance to general zoning requirements for the Medium Density Residential (MDR) district in which it resides (Zoning Code Section 16-33). All application requirements outlined in Section 17-73 have been met (see attached application).

The dissolution does not require any dedication or vacation of easements, impact the location of any remaining lot lines within the subdivision, or create any non-conforming lot. The property to be combined is not within an identified flood plain, does not require any wetland permit, soil erosion plan, or construction of any public improvements.

HISTORY AND PREVIOUS COMMISSION ACTION:

The initial Planned Unit Development (PUD) that included this lot was approved recorded in February 2000.

RECOMMENDATIONS:

As the application meets all requirements outlined in Section 17-73 of the Municipal Code, staff recommends approval.

ALTERNATIVES:

- 1) That the application be denied
- 2) That the Planning Commission consider approval with conditions

ATTACHMENTS:

- 1) Lot line dissolution application
- 2) Notification list
- 3) Site map
- 4) Replat A (current & new lot configurations)
- 5) Big Springs Park PUD plat, 2000
- 6) List of properties within the Big Springs Park PUD

FINANCIAL CONSIDERATIONS:

None



TOWN OF NEDERLAND
 PO BOX 396
 NEDERLAND, CO
 (303) 258-3266

DISSOLU

ION

APPLICANT NAME

BEN + ELIZABETH DEREUME / STEVEN TAORMINA
 ADDRESS 540 LAKEVIEW DRIVE / 640 LAKEVIEW DRIVE NEDERLAND
 PHONE (Home) 303.258.0272 (Work) STEVE: 303.258.0328 80466

PROPERTY OWNER (If different from Applicant) SAME
 ADDRESS _____
 PHONE (Home) _____ (Work) _____

ADDRESS AND LOCATION OF PROPERTY AFFECTED 590 LAKEVIEW DRIVE
NEDERLAND CO
 BLOCK _____ LOT 5 SUBDIVISION BIG SPRINGS PARK P.U.D.

CURRENT ZONING MDR RESIDENTIAL Are you requesting a zoning change? [] yes [X] no

BASIC OBJECTIVES: DISSOLVE EXISTING LOT 5 INTO NEIGHBORING
LOTS 4 AND 6 PER THE "BIG SPRINGS PARK P.U.D."
REPLAT A"

THE FOLLOWING INFORMATION IS REQUIRED TO BE INCLUDED WITH THIS APPLICATION.

1. A survey of the land to be consolidated, consisting of one of the following:
 - a. Survey of the original subdivision in which dissolution of lines is requested (if original subdivision made in last five (5) years) MB
 - b. Improvement location certificate from the last five (5) years -
 - c. A recorded boundary line survey at the Boulder County Clerk and Recorder's Office from last five (5) years -
2. Current title commitment or ownership and encumbrances report showing all parties with an interest in the property MB
3. Non-refundable application fee of \$50 MB
4. Size of the proposed consolidated lot: 15,890 s.f. LOT 4A
 Meets Zoning District requirements 16,483 s.f. LOT 6A MB
5. Dissolution of lot line shall be titled with same name as that of the original subdivision MB
6. Parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land and character of the neighborhood MB
7. Lots to be combined are:
 - a. Held in identical ownership at time of application MB

- b. Not separated by an easement, right-of-way or any other dedication to an individual or entity other than the owner of the property
 - c. In the same zoning district
 - d. Part of the same underlying plat
8. Written documentation to be attached include:
- a. Drainage plan
 - b. Wetland delineation, 404 permit determination (federal)
 - c. Floodplain verification and mitigation (if necessary)
 - d. Revegetation and soil erosion plan
 - e. Description of public utility improvements serving the property or construction plan for needed utilities

NO
NO
NO

N/AP - no planned development
NO

The information I have submitted is true to the best of my knowledge. I understand that if this proposal is deemed complete, it will be submitted for consideration to the Planning Commission. If a recommendation of the proposal is given by the Planning Commission, the final application will then be submitted to the Board of Trustees for final consideration.

[Signature]
Applicant's Signature

[Signature]

[Signature]

Nov. 15 2010
Date

11.15.2010

11/15/2010

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