



Nederland Planning Commission

AGENDA

Wednesday, January 26th, 2011 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

- 1) Call to Order
- 2) Roll Call
- 3) Approval of minutes from December 1, 2010
- 4) Action Items
 - a. Consideration of a request by resident Mark Cohen to amend Section 16-88 of the Nederland Municipal Code
 - b. Consideration of draft medical marijuana ordinance
- 5) Discussion Items
 - a. Plan for update of the 2003 Comprehensive Plan
- 6) Other Business
 - a. Zoning map update
- 7) Adjournment



Nederland Planning Commission

MINUTES

Wednesday, December 1st, 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: Chairman B. Martin, Commissioners R. Cornell, D. Jackson, M. Osterloo, Commissioner D. Mueller and Trustee K. Mueller.

Also present: Town Administrator Alisha Reis, Deputy Town Clerk Kristen Edwards.

3) Approval of minutes from October 27, 2010

The motion to approve the minutes was made by Commissioner Jackson, seconded by Commissioner Cornell and unanimously approved.

4) Action Items

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

Applicants Steve Taormina (640 Lakeview Drive – Lot 6) & Ben Dereume (540 Lakeview Drive – Lot 4) introduced the request. They have jointly purchased the lot in-between their two properties (590 Lakeview Drive – Lot 5) and are looking to divide Lot 5 between their two neighboring properties. Town Administrator Reis confirmed that the proposed lots conform to zoning and subdivision requirements and that all application requirements have been met by the applicants.

After some discussion, the Commission agreed that current code covers all potential future issues related to sub-dividing the

property. Trustee Mueller asked about the dynamics of the 10-foot utility easements that exist on both sides of the current lot lines connecting Big Springs and Lakeview. The applicants explained that both Qwest and Xcel are OK with removing those interior easements and only require the easement along Lakeview Drive. Town Administrator Reis suggested the applicants request something in writing from the utilities clearly stating that understanding so the BOT has that information when considering the recommendation.

The Commission discussed the possibility that the Town's Public Works Department might want an easement along the newly created lot line connecting Big Springs and Lakeview. They agreed that the dynamic of easements & where utilities are laid should be clarified prior to the item going in front of the BOT. Administrator Reis will discuss the situation with Public Works and get the answer to that question.

The motion to recommend to the Board of Trustees the lot line dissolution at 590 Lakeview Drive (Lot 5, Big Springs Park PUD), per Town Staff and the applicants' resolution of easement issues between Big Springs and Lakeview, was made by Commissioner Cornell, seconded by Commissioner Jackson and unanimously approved.

5) Discussion Items

a. Nederland Comprehensive Plan

Chairman Martin introduced the item, explaining that the 'on-again-off-again' project of updating the comprehensive plan needs to again be revived, and new Town Staff needs to be brought into the loop. Administrator Reis posed a number of questions, including how the Commission envisions the process moving forward and what role there will be for Town Staff support and/or outside professional assistance.

Chairman Martin explained that the intent is to use limited outside support given budget constraints. The Commission has previously worked with DrCOG, but isn't sure how much they can help this time, particularly with the limited budget. The plan needs to be updated approximately every ten years; as the last plan is from 2003, it's time for an update. He envisions the first third of the process to be mostly internal and Planning Commission-driven,

going through the document and flushing out what needs to be updated. The middle third will involve public meetings and workshops and working more closely with the Trustees, and the final third will tie everything together. The Commission started the process of going through the document page by page and is still in the introduction section. He feels there's a need to form a plan to address what bigger-picture policy statements and newer issues are missing from the 2003 plan but need to be included in this version.

Commissioner Cornell pointed out that the group needs to decide if new issues should be given their own discrete sections or be interwoven throughout the document. He believes that in the past the process didn't move forward because so much time was spent talking about the big picture. Chairman Martin agreed that much time was spent on the introduction and the general policy statements such as climate change and energy-smart development, but believes those to be important things to consider. He suggested looking at similar communities who have gone through the process and see how they did it, and emphasized that the goal is for the plan to be usable.

Reis said she was very involved in Monte Vista's last comprehensive plan revision, where a primary objective was to make the document more usable. She said the goal is to be specific and guideline-oriented where possible, but still be broad enough to have a place for things you might not be able to anticipate during the planning process. During the process she created a very functional handbook for developers that saved time and money by giving developers a clear idea of the process and helping them avoid non-starter projects. A similar handbook for Staff can be generated to make administrative review of projects easier.

Chairman Martin said the Commission has had projects be very specific to stay 'under the radar' and avoid coming before the Commission or the BOT. He believes the Planning Commission has an undeserved reputation as roadblock.

Reis stressed the importance of going through the zoning code after the comp plan process is complete to make sure everything matches. She said the comp plan should be the 'guideline' and the ordinances and code should be the 'teeth.' The Commission said that in the past the most that was done was to cross-reference the code with the plan as it was developed and make sure the plan stayed within the parameters of the code. It was an ongoing question during the last

plan revision what parts of the code should be addressed in the plan and the sequence of how comp plan changes can affect ordinances and code. Reis emphasized that the comp plan update should definitely come first, and in the course of doing so, identify pieces of code that don't line up well and change those through the normal Board process. She also recommended having a consultant or some other dedicated person helping with the project management piece, so as to gain momentum and keep things moving forward. That said, she believes that most pieces can be done internally. She offered to generate for the Commission some recommendations of how the process could be undertaken in the least expensive way, including a few different options.

Commissioner Cornell suggested that the BOT needs to weigh in on whether or not there is a budget for the process, as well as how the process should or shouldn't be integrated with the Envision 2020 process. The Commission discussed the dynamics of the two processes and the different ways in which they could potentially interact. They generally agreed that the comprehensive plan should be the 'alpha' document, but that it would be good to include the Envision 2020 plan (and especially the public input gathered during the visioning process) in some way.

Chairman Martin argued for the need to flesh out more current topics during this round rather than just editing and technically updating the previous version, as he feels was done in the past.

Commissioner Cornell warned that during the 1994 update process, there was a significant amount of dialogue and disagreement, but that the document ended up being mostly one group's perception of the Town.

Reis said there are numerous ways to filter community direction into policy, along the lines of public surveys or 'voting with dots' as was done at the recent West Wing workshop. She emphasized the importance of making sure the comp plan realistically accounts for and stays within the confines of the capabilities of the existing infrastructure.

Commissioner Cornell said he is invigorated by Reis and her ideas and is excited to leverage her experience and leadership. Chairman Martin agreed, adding that it's good for Staff to be part of the planning process rather than only being involved in implementation. He is intrigued by the opportunities to tie into other groups such as

the Sustainability Advisory Board, the forestry management group and the DDA who may have a good read on key issues. He suggested proactively contacting those sorts of groups to find out what they're working on and what they think is important to include in the Plan.

Trustee Mueller said there is a significant amount of technical information in the comp plan that needs to be worked out in parallel with the visioning process. The Commission should gather information from other groups about where things are now and how to move things forward. He encouraged everyone to attend the Envision 2020 meetings so as to stay in touch with where the community wants to go, and then work to merge those visions with the technical data.

Chairman Martin wondered if the Commission should schedule an extra meeting per month focused only on the comp plan, noting that it may be dependent on the number of other items on upcoming meeting agendas.

Trustee Mueller suggested that everyone look over the comp plan before the January meeting and take notes on which groups would best provide input to which sections. Those groups can then be asked to review the relevant sections and weigh in on 'where we are' and 'where we want to go.' Reis suggested creating topic-specific focus groups with members from a variety of sources so no one group dominates the discussion in any one area. Chairman Martin suggested that documents generated since the last plan should also be referenced and used as a source of information.

The Commission agreed that their 'homework' is to re-read the document, determine which sections need more or less work, and note which groups, events, individuals and interim documents tie in to each section. Reis will work on her recommendations as to process, budget and which tasks are best addressed by which parties.

The Commission had a brief discussion around zoning map updates; Chairman Martin is working with Whit Johnson and Staff on updates, and a draft map should be available for the group to review in January or February. The BOT will need to officially adopt the updated map by ordinance after the Commission signs off.

6) Other Business

a. Staff Update re: Chicken Ordinance

Deputy Clerk Edwards explained that Town Clerk Myers has incorporated the Commission's comments from the last meeting into a new draft ordinance that is currently being reviewed by the Town Attorney. Next steps will be to make the draft available to the public for comment and relay that feedback to the Commission when the item is back on the agenda. She distributed a recent article from the Daily Camera about the Town of Longmont's experience with chickens; namely they have had far fewer problems than anticipated.

Trustee Mueller talked about his experience with his neighbors' chickens. He personally doesn't have an issue with them, but some of his other neighbors do.

b. Member Update

Commissioner Daron Mueller confirmed that he was resigning from the Commission and that this was his last meeting. The Commission thanked him for his service and wished him luck. Chairman Martin announced that former Commissioner Steven Williams has agreed to re-join the Commission for another term.

Edwards worked through some housekeeping details vis-à-vis mailings that come to Town Hall as well as codebooks.

7) Adjournment

The motion to adjourn was made by Trustee Mueller, seconded by Commissioner D. Mueller and unanimously approved at 8:37 pm.

Approved by the Planning Commission,

Bill Martin, Chair, Planning Commission

ATTEST:

Kristen Edwards, Deputy Town Clerk



**AGENDA INFORMATION
MEMORANDUM
NEDERLAND
PLANNING COMMISSION**

Meeting Date: January 26, 2011

Initiated By: /s/ Mark Cohen

Dept: Resident

Action Discussion

AGENDA ITEM:

Consideration of a request by resident Mark Cohen to amend Section 16-88 of the Nederland Municipal Code

SUMMARY:

Cohen requests expanding Section 16-88, which allows increased density on a case-by-case basis by the Board of Trustees within the Neighborhood Commercial (NC) zoning districts, to include other zoning districts. His request would maintain the allowance as a case-by-case review by the Board of Trustees.

Cohen currently represents landowner Paul Rewinkel, who wishes to develop his property at 259 and 261 W. Fourth St. into a duplex (which would require a separate Special Review Use Permit process). The property is zoned Mountain Residential (MR), which allows one unit per 8,000 s.f. The property is comprised of two lots totaling 8,001 s.f. Currently, the property is two non-conforming lots (less than the required 8,000 s.f. for the zoning district), which does not allow upgrade of the aging structures on site beyond basic maintenance.

Rewinkel proposes to combine the lots into one legal, conforming lot as defined by regulations pertaining to the MR district (Section 16-33). Cohen will be present at the Jan. 26 meeting to further explain his request and answer any questions of the Commission.

HISTORY AND PREVIOUS BOARD ACTION:

In 1983, the Board of Trustees adopted Ordinance 246, which enacted the ability for the Board to consider cases to increase density upon lots in the Neighborhood Commercial (NC) zoning districts from one unit per 4,000 s.f.

to one unit per 2,000 s.f. The Board followed up in 2008 with minor tweaks to the section, but maintained the overall intent and wording.

RECOMMENDATIONS:

Given that the code change would continue to allow each project to be considered on an individual basis, staff recommends approval of the request.

ALTERNATIVES:

- 1) Recommend the change to Section 16-88 of the Code
- 2) Decline to recommend the change
- 3) Refer the request for additional analysis by staff prior to a decision

ATTACHMENTS:

- 1) Letter of request by Mark Cohen
- 2) Site plan for duplex project
- 3) Section 16-88 of the N.M.C.

FINANCIAL CONSIDERATIONS:

None

THE COHEN LAW GROUP
A Professional Corporation

MARK COHEN

Of Counsel

JEFFREY D. COHEN, J.D., LL.M., C.P.A.
ALSO AT THE COHEN LAW FIRM, P.C.

ALISON L. CHOY KILMER, J.D., M.B.A.

December 27, 2010

Via Email Only

Ms. Alisha Reis
Nederland Town Administrator
alishar@town.nederland.co.us

RE: Rewinkel / Request for Consideration of Changes to Municipal Code

Dear Alisha:

I am writing to follow up on our discussions during the past months and in the wake of the BZA's denial of Mr. Rewinkel's appeal. I want to present a proposal that we hope will resolve this seemingly endless saga.

As I explained, Mr. Rewinkel and Cherry Creek Mortgage Company are willing to combine the two lots into one, which has been the Town's stated objective for several years, and then construct a duplex on the new lot. The duplex would make use of the existing structure currently on each lot, as shown in the drawings I provided to you. Mr. Rewinkel and CCMC believe they can do this in way that is economically feasible from their point of view. Bulldozing the structures and building a new one is not economically feasible. This proposal, if agreed to, would resolve all legal issues and convert two currently unsightly structures into an attractive duplex at a time when Nederland needs affordable housing.

In order to move forward, the Town would need to change Section 16-88 of the NMC. Currently that provision allows the Board of Trustees to consider on a case-by-case basis the increase of density on lots within Neighborhood Commercial (NC) zoning districts. Changing that provision to allow the Board to consider such proposals in other zoning districts on a case-by-case basis would allow a path whereby the Board could consider this duplex proposal.

We understand that a duplex is a Special Review Use within the MDR zoning district, and that Mr. Rewinkel would have to follow that process if the Board changed Section 16-88 as we now suggest. In that event the SRU and lot line adjustment could be considered concurrently.

One other issue we would need to address, if the Town is willing to move in this direction, concerns Mr. Rewinkel's right to file suit after the BZA issues its written opinion in his case. Any such action would include a claim under Rule 106 of the Colorado Rules of Civil Procedure, and by law Mr. Rewinkel would have to file that action within 30 days after the BZA issues its written opinion. Assuming the BZA issues its written decision in January, it seems unlikely that that the proposed revision of the code and the SRU process could be completed within 30 days after that. Even if the Town were willing to agree to waive that 30 requirement as we try to move forward on this, I do not believe such a waiver would be binding on the Court. Therefore, we would probably want to go ahead and file our Complaint within that 30-day period, but we would agree not to serve the Complaint on the Town while this process is moving forward.

Please convey this proposal to the Board of Trustees. If you have any questions or need any additional information, please call.

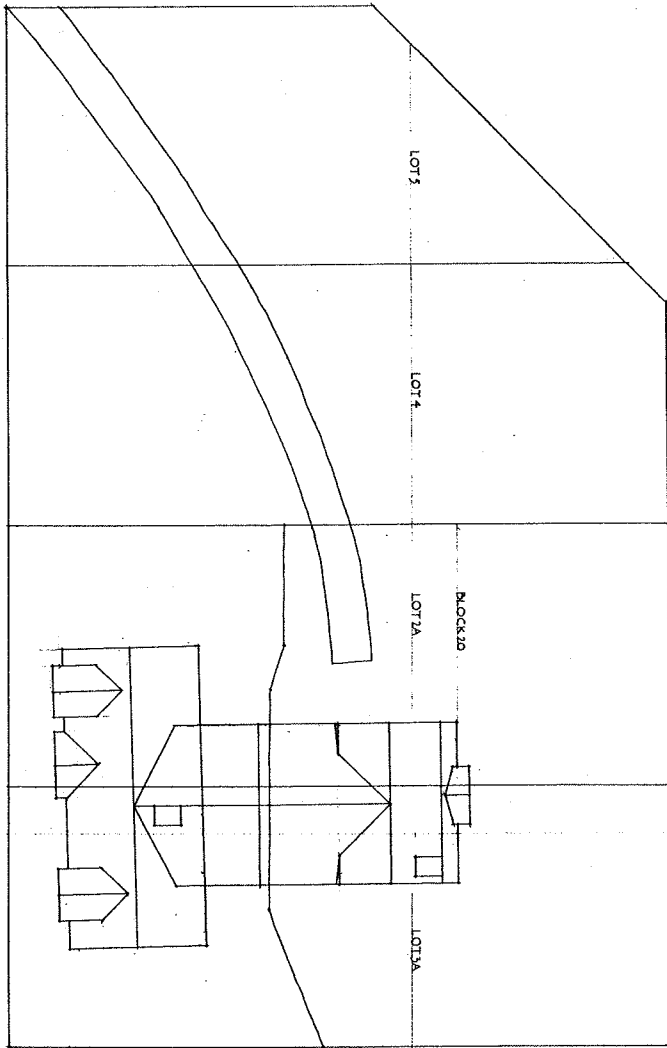
Sincerely,
THE COHEN LAW GROUP
A Professional Corporation

Mark Cohen

MARK COHEN

MSC:js

CC: Paul Rewinkel
Cherry Creek Mortgage Co.



SITE PLAN
SCALE 1/8"=1'-0"

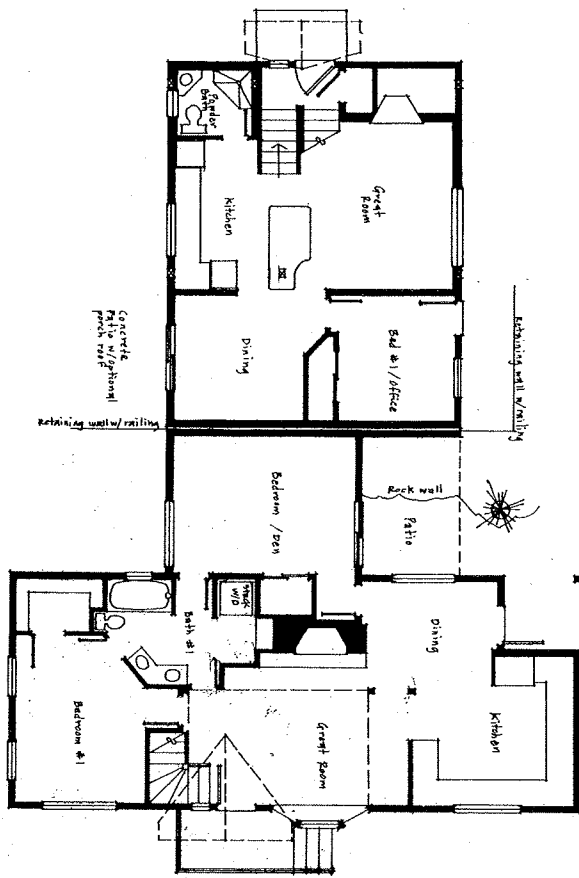
A
1

SEPT. 21, 2000
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80466



eSopris
203 DEER RUN
CARBONDALE, CO
970-319-8534



FIRST FLOOR PLAN
SCALE 1/4" = 1'-0"

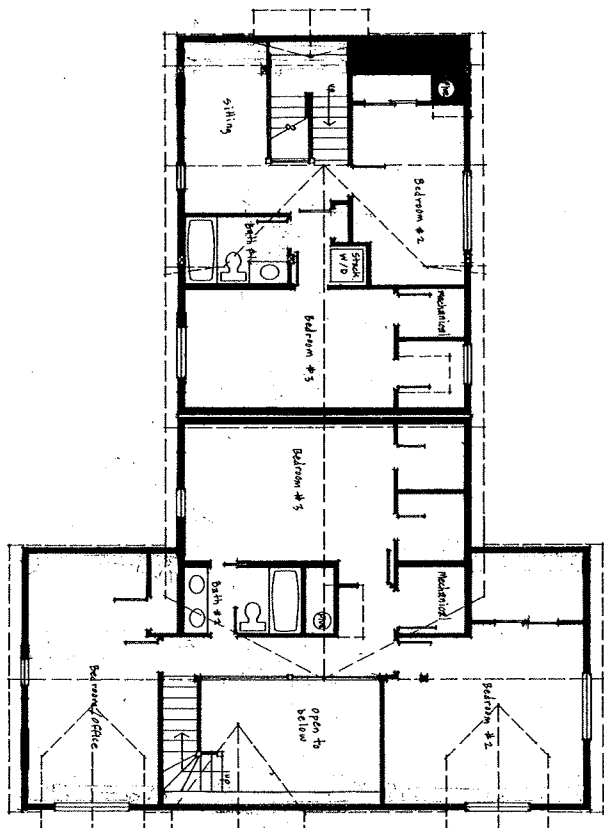
A 2

SEPT. 11, 2010
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80466



eSopris
203 DEER RUN
CARBONDALE, CO
970-319-8534



SECOND FLOOR PLAN
SCALE 1/4" = 1'-0"

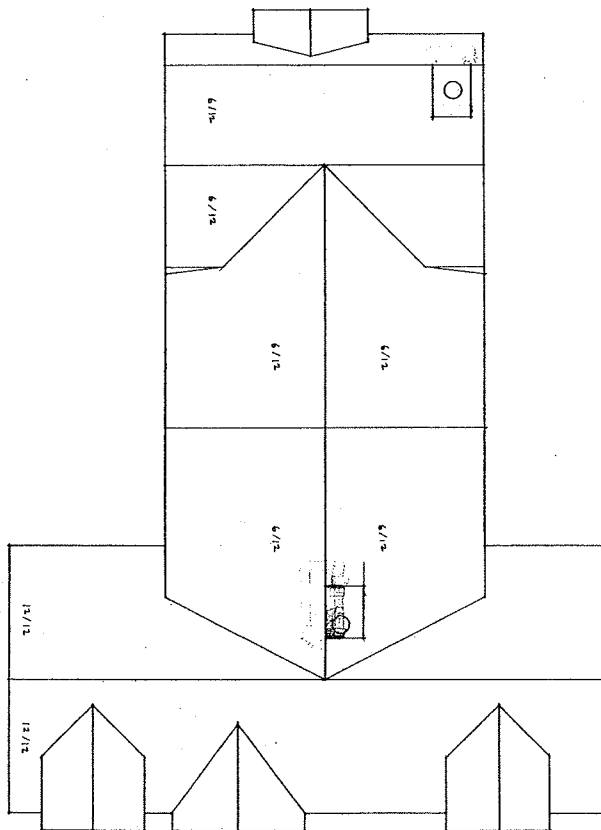
A3

SEPTE. 22, 2000
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80466



eSopris
203 DEER RUN
CARBONDALE, CO
970-319-8534



All dormers 12/12

ROOF PLAN
SCALE 1/4" = 1'-0"

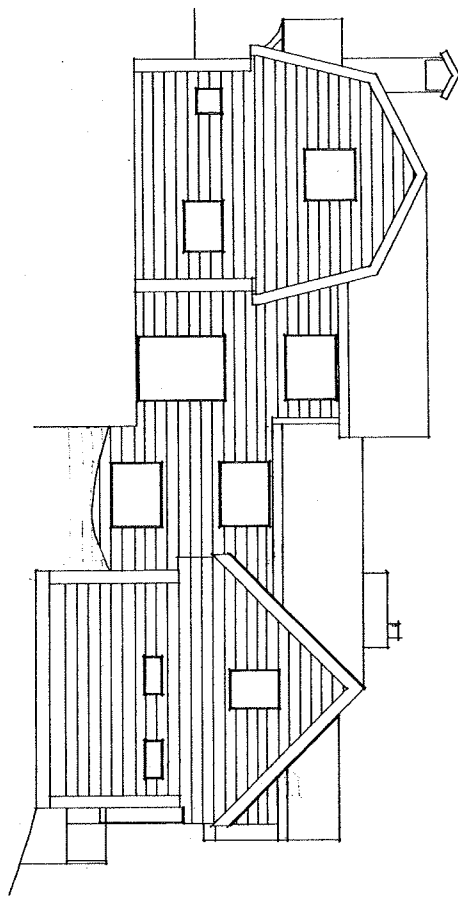
A
4

SEPT. 22, 2000
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80466



eSopris
203 DEER RUN
CARBONDALE, CO
970-319-8534



WEST ELEVATION
SCALE 1/4"=1'-0"

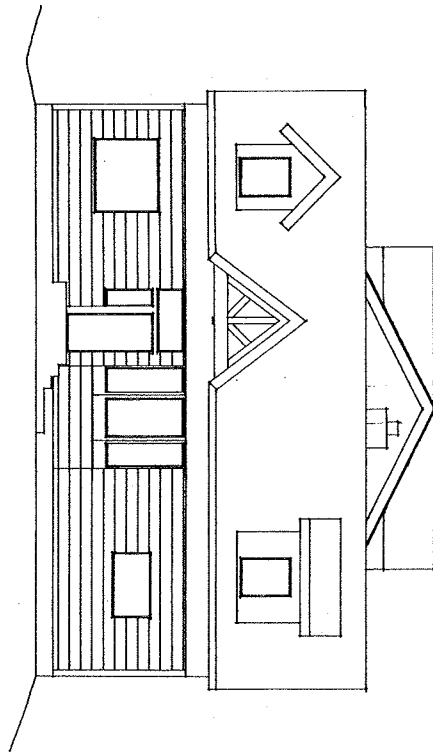
A
5

SEPT. 22, 2010
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80466



eSopris
203 DEER RUN
CARBONDALE, CO
970-319-8534

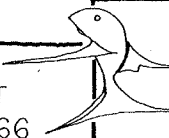


SOUTH ELEVATION
SCALE 1/4"=1'-0"

A
6

SEPT. 22, 2010
DESIGN

PAUL REWINKEL
259 W. 4TH STREET
NEDERLAND, CO 80166



eSopris

203 DEER RUN
CARBONDALE, CO
970-319-8534

Sec. 16-85. Salvage yards.

Salvage yards shall be screened from view by natural terrain, dense foliage and/or adequate fencing that complies with Subsection 16-89(b). (Ord. 209 Art. IV §17, 1981; Ord. 645 §16, 2008)

Sec. 16-86. Recreational vehicles.

The following regulations shall apply in all residential districts to the storage and use of travel trailers, tent trailers, pick-up campers on coaches, motorized dwellings, boats and boat trailers, snow vehicles, cycle trailers, utility trailers and vans, horse trailers and vans, and similar vehicular equipment:

(1) Such vehicular equipment shall not be stored or parked closer than eighteen (18) inches to any proposed or existing public sidewalk and in no instance shall it project into the public right-of-way.

(2) Any such vehicular equipment which exceeds thirty (30) inches in height shall not be parked in a vision clearance area.

(3) Travel trailers, tent trailers, pick-up campers or coaches, motorized dwellings and/or vans shall not be used for living or housekeeping purposes except when located in an approved mobile home park or in a campground providing adequate sanitary facilities, and no business shall be conducted within such equipment parked or stored unless the Zoning Administrator has given approval.

(4) Travel trailers, tent trailers, detached pick-up campers or coaches, boats and boat trailers, cycle trailers, utility trailers and vans, horse trailers and vans which are parked and stored out-of-doors shall be adequately blocked and/or tied down or otherwise secured so that such vehicles do not roll off the lot and are not otherwise moved about by high winds.

(5) No vehicular equipment regulated by this Section shall be stored out-of-doors on a residential lot unless it is in condition for safe and effective performance of the functions for which it was intended. (Ord. 209 Art. IV §17, 1981)

Sec. 16-87. Mobile homes.

Mobile homes shall be located only in mobile home parks and as otherwise specified in Article V of this Chapter. (Ord. 209 Art. IV §18, 1981)

Sec. 16-88. Density increase.

The minimum lot area per dwelling unit stated in Section 16-33 for the NC District may be decreased to two thousand (2,000) square feet upon approval of the Board of Trustees if the applicant has met the following:

- (1) The project has been processed as a planned unit development;
- (2) The project site is at least eight thousand (8,000) square feet in size;

(3) At least twenty-five percent (25%) of the project site is landscaped open space (excluding parking);

(4) The Town may require project site planning, including landscaping and building design by certified professionals; and

(5) The applicant has paid the additional costs incurred by the Town for extraordinary review of the application, including the services of outside contractors. (Ord. 246 §4, 1983; Ord. 645 §17, 2008)

Sec. 16-89. Fences.

(a) It shall be unlawful for any person to construct or erect any fence within the limits of the Town exceeding six (6) feet in height except as specifically stated herein.

(b) A fence exceeding six (6) feet in height may be constructed or erected only for the purpose of screening legally existing junk yards, outdoor storage yards and other legally existing uses involving the outside storage of machinery, equipment, material and automobiles. However, no such fence shall exceed eight (8) feet in height. Upon approval by the Board of Trustees, municipal facilities and certain public facilities may exceed height restrictions for safety or land use reasons, but in no circumstance should said fences exceed heights allowed in Section 16-33 of this Chapter, under Structure Criteria.

(c) It shall be unlawful for any person to construct or erect any fence exceeding four (4) feet in height within fifteen (15) feet of any lot line bordering upon any street or road, or within the Central Business District.

(d) It shall be unlawful for any person to construct or erect any fence in the Central Business District of a material that is of a combustible, environmentally unsafe or toxic or hazardous material of any kind.

(e) It shall be unlawful for any person to construct or erect any fence exceeding three (3) feet in height within one hundred (100) feet of the center of any intersection of two (2) or more streets or roads.

(f) Any fence erected or constructed hereafter which exceeds the heights set forth above shall constitute a public nuisance.

(g) For the purpose of this Section, the height of the fence shall be measured from grade to the top of the highest point of the fence. Grade shall be determined on that portion of the property on which each portion of the fence is to be constructed or erected, as said grade exists on the date of the ordinance codified herein, or as such grade exists on the date a permit for construction is applied for, whichever grade is lower.

(h) Any person violating any provision of this Section shall be guilty of a misdemeanor and may be punished by a fine up to one thousand dollars (\$1,000.00) per day or one (1) year in jail or both.



AGENDA INFORMATION MEMORANDUM NEDERLAND PLANNING COMMISSION

Meeting Date: January 26, 2011

Initiated By: /s/ Teresa Myers, Town Clerk

Dept: Administration

Action Discussion

AGENDA ITEM:

Consideration of draft medical marijuana ordinance.

SUMMARY:

This ordinance will govern medical marijuana businesses in Town. The Planning Commission is charged with reviewing and commenting on the planning- and zoning-related sections.

HISTORY AND PREVIOUS BOARD ACTION:

In June 2010, Governor Ritter signed H.B. 1284, regulating the State's medical marijuana (MMJ) industry. Absent local ordinances, the State statute and regulations will exclusively set the parameters and requirements for medical marijuana businesses. Enactment of the State law, and subsequent publication of the regulations, resulted in considerable confusion and frustration on the part of medical marijuana business owners, supporters and opponents, including those in Nederland.

Over the summer, Mayor Abu-Haidar created the Mayor's Task Force on Medical Marijuana with the approval of the Board of Trustees, and the Mayor appointed Trustee Chris Perret as Chair. The Mayor and Board directed that the Task Force was to be comprised of two local MMJ business owners, one Chamber of Commerce member not affiliated with the MMJ industry, one interested Town resident not aligned with the medical marijuana industry, and Town Clerk Teresa Myers. The Town received multiple applications for positions on the Board, and Trustee Perret and Ms. Myers selected the Task Force members based on their ability to contribute a variety of viewpoints and expertise to the group. In the interest of transparency and inclusion, Trustee Perret initially invited all MMJ business owners to attend and participate in the Task Force proceedings; this ultimately proved to be disruptive to the proceedings and the Mayor and Trustee Perret reluctantly enforced the meeting rules adopted by the Board of Trustees to govern all public Town meetings.

Through the course of the Task Force's work, various local consultants and lawyers were also tapped for opinions and assistance. Our Task Force was particularly fortunate to have had as a member a local MMJ business owner who is also serving on the Governor's Task Force. His insight into the State rules, regulations, and rationales was invaluable to our process.

On October 27, 2010, the Task Force forwarded to the Planning Commission a rough working draft of this document for initial consideration and feedback. Since that time, additional discussion, negotiation, and research have been conducted by and among the Task Force members and Town staff. Town Attorney Carmen Beery has reviewed the ordinance extensively and provided considerable feedback to govern the inclusion, exclusion, and breadth of the various aspects of the ordinance.

The Board of Trustees has requested that the Planning Commission review the ordinance for any planning and zoning concerns that might arise. Given the legally complex nature of the MMJ industry at this point, the Board has asked that the Commission members limit their review to the matters that fall clearly under the Commission's purview. To this end, staff has **bolded** those areas that concern planning and zoning. We have also provided comments in the margins where we believed context was useful or to highlight particular issues.

RECOMMENDATIONS:

Recommend approval of the Task Force's draft ordinance to the Board of Trustees.

ALTERNATIVES:

- 1) Recommend approval of the draft ordinance as it is written
- 2) Recommend approval of the draft ordinance with changes
- 3) Decline to recommend the draft ordinance.

ATTACHMENTS:

Draft Medical Marijuana Ordinance

FINANCIAL CONSIDERATIONS:

Enactment of this ordinance will result in a slight annual revenue gain for the Town, which is offset by the additional license processing required by staff under the ordinance.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6 OF THE NEDERLAND TOWN CODE
BY ADOPTING PROVISIONS FOR THE REGULATION OF
MEDICAL MARIJUANA BUSINESSES

BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND,
COLORADO:

Section 1. Regulations Adopted. Chapter 6 of the Nederland Town Code is amended by the addition of a new Article X, to be entitled "Licensing of Medical Marijuana Businesses", which shall read in its entirety as follows:

ARTICLE X

MEDICAL MARIJUANA BUSINESSES

SECTION:

- 6-231: SHORT TITLE
- 6-232: FINDINGS
- 6-233: PURPOSE
- 6-234: AUTHORITY
- 6-235: DEFINITIONS
- 6-236: LICENSE REQUIRED
- 6-237: APPLICATION FOR LICENSE
- 6-238: APPLICATION FEE
- 6-239: INVESTIGATION OF APPLICATION
- 6-240: STANDARDS FOR ISSUANCE OF LICENSE
- 6-241: DENIAL OF LICENSE
- 6-242: AUTHORITY TO IMPOSE CONDITIONS ON LICENSE
- 6-243: DECISION BY TOWN ADMINISTRATOR
- 6-244: NOTICE OF DECISION
- 6-245: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF LICENSE
- 6-246: CONTENTS OF LICENSE
- 6-247: INSPECTION OF PREMISES
- 6-248: LICENSE NOT TRANSFERABLE
- 6-249: NOTICE OF ISSUANCE OF LICENSE
- 6-250: DURATION OF LICENSE; RENEWAL
- 6-251: DUTIES OF LICENSEE
- 6-252: POSTING OF LICENSE
- 6-253: SUSPENSION OR REVOCATION OF LICENSE
- 6-254: LIMITATION ON SALE OF MARIJUANA
- 6-255: MEDICAL MARIJUANA BUSINESS LOCATION
- 6-256: HOURS OF OPERATION
- 6-257: SIGNAGE

MEDICAL MARIJUANA BUSINESS ORDINANCE

- 6-258: REQUIRED WARNINGS TO BE POSTED
- 6-259: ON-SITE CONSUMPTION
- 6-260: PARAPHERNALIA
- 6-261: ON-SITE CULTIVATION, GROWING AND PROCESSING
- 6-262: ALCOHOL
- 6-263: DISPLAY OF MEDICAL MARIJUANA
- 6-264: SECURITY REQUIREMENTS
- 6-265: CONFIDENTIALITY OF INFORMATION RELATED TO MEDICAL MARIJUANA BUSINESSES
- 6-266: BUSINESS LICENSE REQUIRED
- 6-267: TAXES
- 6-268: REQUIRED RECORD
- 6-269: PENALTIES; INJUNCTIVE RELIEF
- 6-270: NO WAIVER OF GOVERNMENTAL IMMUNITY
- 6-271: NO TOWN LIABILITY
- 6-272: INDEMNIFICATION OF TOWN
- 6-273: OTHER LAWS REMAIN APPLICABLE
- 6-274: RULES AND REGULATIONS

6-231: SHORT TITLE: This article shall be known and may be cited as the "Town Of Nederland Medical Marijuana Business Licensing Ordinance."

6-232: FINDINGS: The Board of Trustees adopts this article based upon the following findings of fact:

- A. On November 7, 2000 the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.
- B. The intent of Amendment 20 was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use, and distribute marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law.
- C. On April 6, 2010, the voters of the Town of Nederland approved Ballot Issue 1, which removed municipal penalties related to buying, selling, possessing, consuming, transporting, cultivating, manufacturing and dispensing marijuana and its concentrate and related paraphernalia among persons 21 years of age and older.
- D. Despite the adoption of Amendment 20 in the State of Colorado and Ballot Issue 1 in the Town of Nederland, marijuana is still a controlled substance under Colorado and federal law. As a result, the Town of Nederland is permitted to and, under state law, required to regulate medical marijuana-related businesses.

MEDICAL MARIJUANA BUSINESS ORDINANCE

- E. If medical marijuana businesses operating pursuant Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana businesses might be established in areas that would conflict with the Town's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.
- F. The medical marijuana regulations at the State level do not reflect the special character, size, and nature of the Town of Nederland, and so the Board of Trustees seeks to create a medical marijuana regulation that does so.
- G. Nothing in this article allows a person to:
 1. Engage in conduct that endangers others or causes a public nuisance;
 2. Possess, cultivate, grow, use, or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20 and Ballot Initiative 1, and the implementing state statutes and administrative regulations;
 3. Possess, cultivate, grow, use, or distribute marijuana that is otherwise illegal under applicable law; or
 4. Engage in any activity related to the possession, cultivation, growing, use, or distribution of marijuana that is otherwise not permitted under the laws of the Town or the State of Colorado.
- H. This article is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the Town and the inhabitants thereof.
- I. No person, business, activity or use that distributed or involved the distribution of marijuana within the Town prior to the enactment of this article shall be deemed to have been legally established as a licensed, medical marijuana business under this article, and no such person, business, activity, or use shall be entitled to claim legal nonconforming status under any provision of this article or applicable law.

6-233: PURPOSE: Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana businesses, it is the purpose of this article to:

- A. Require that a medical marijuana business, as defined in Section 6-235, be operated in a safe manner that does not endanger the public welfare.
- B. Mitigate potential negative impacts that a medical marijuana business might cause on surrounding properties and persons.

MEDICAL MARIJUANA BUSINESS ORDINANCE