



Nederland Planning Commission

AGENDA

Wednesday, January 25, 2012 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

- 1) Call to Order
- 2) Roll Call
- 3) Public Comment
- 4) Approval of minutes from November 30, 2011
- 5) Discussion Items
 - a. Discussion of a Bed & Breakfast home occupation use in a LDR zone, 103 Sundown Trail
- 6) Other Business
- 7) Adjournment



Nederland Planning Commission

MINUTES

Wednesday, November 30, 2011 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

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

2) Roll Call

Present: Chairman Bill Martin, Commissioners Denise Jackson, Roger Cornell and Steve Williams; Mayor Pro Tem Kevin Mueller.

Also present: Town Administrator Alisha Reis, outgoing Deputy Town Clerk Kristen Edwards, incoming Deputy Town Clerk Michele Martin, and Public Works Manager Jason Morrison

Absent: Commissioners Kris Larsen and Mikki Osterloo

3) Public Comment

There was no public comment.

4) Approval of minutes from September 28, 2011

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

5) Action Items

a. King Place Replat Amendment – Lots 1 & 2 (99 King Place)

Town Administrator Alisha Reis introduced the item, explaining that the applicant Glenna Carline is in Arizona and will not be able to attend the meeting. She explained that the applicant is requesting an amendment to the restrictions that were placed on the replat back in 1995.

The Replat currently states:

"The Restriction on Conveyance and Building Permits.

There shall be no conveyance, sale, or transfer of title of any lot, lots, tract, or tracts of land within "Kingplace Replat", nor will the Town issue building permits for any lots until all of the following conditions have been completed.

*****DRAFT – Not yet approved by Planning Commission*****

- A. All public improvements within “Kingplace Replat” including but not limited to all streets, curb, gutter, sidewalks, pans, drainage facilities, water and sewer improvements, landscaping and street fixtures are fully completed and accepted by the Town of Nederland.

These conditions may be fully or partially waived by the Town upon the posting of security satisfactory to the Town which will ensure timely completion of such improvements.”

Reis went on to explain that these conditions would be incorporated during the building permit process and wasn't quite sure why they would have been put onto this replat. These types of conditions would normally be issued on a major subdivision or PUD, but not generally for a replat of this nature and size. Under Replat in the Code, it states to look under “subdivisions”, which could be why those conditions were included on the replat.

The owner, in a letter dated October 28, 2011 addressed to the Town of Nederland, Board of Trustees, also requested permission to install a well. Town code requires hook-up to sewer and water if within 200' of the utilities lines. Public Works Manager Jason Morrison stated the property owner would be required to hook up to Town utilities. There are no logistical reasons he could see as to why that couldn't be done. The tap is nearby. He would support a Hardship Waiver for the well only if there were major concerns such as drilling into bedrock, as the depth would have to be 6'-7' down, and the finances associated with that could be considered a hardship. The Board thanked Morrison for his comments.

There was no public comment on the matter, so Chairman Martin closed the floor and opened discussion to the Commission.

Commissioner Cornell was most familiar with the site and remembers sitting on the Commission back in 1995. He recalls it was the neighbor to the west who mostly had issues because they were used to the vacant land and didn't want anything disturbed or changed. There weren't any real issues during the public hearing or debates of the replat, he said. The owners had put in a very nice 12' wide road and the easement along the berm line is very well marked out. In regards to their utility hook up, they have a legal right to trench across that western boundary. They could get an easement and bury a service line across the existing driveway since they own both lots instead of jeopardizing and digging up trees. There appears to be two easements on the replat. The most logical connection would be through their driveway easement instead of along the western edge, because it seems to be the shortest route. It was determined by the Planning Commission that they didn't necessarily have to solve this issue for the owner. The current issue is the restriction on conveyance. The easement issue would fall to a new owner.

Commissioner Jackson noted that the amendment as proposed doesn't really address the applicant's issues with conveyance, as the utilities portion remains on there and would not be dealt with before the property is sold. The Commission agreed that current Town Code and the building permit process addresses the

utility requirements. The proposed Replat Map Amendment resolution would need to be redrafted for the Board of Trustees. The Planning Commission recommended that the owner should not be granted a hardship waiver regarding hook up to the Town's public utilities. Any hardship consideration should be postponed until new ownership. Staff supports the replat amendment.

The motion to recommend to the Board of Trustees to remove the restriction on conveyance from the replat in full was made by Commissioner Cornell, seconded by Commissioner Jackson and approved unanimously by hand vote.

A second motion to recommend to the Board of Trustees to deny the applicant's request for a hardship variance and require a connection to the Town water system was made by Commissioner Cornell, seconded by Commissioner Jackson and approved unanimously by hand vote.

6) Discussion Items

a. Discussion of potential redevelopments between 1st & 2nd Streets, Hwy 119 & Snyder Street

Ron Mitchell introduced his presentation as a vision regarding the development of the block in question. He said he intended these as general ideas of what could be done. He recognized that the proposal would be controversial and would like to see the concept voted on by the entire Town, giving every citizen an opportunity to participate in the decision regardless of how many meetings it takes. He said he believes there is a precedent for the proposal; the Best Western Lodge was a controversial item as it was proposed and implemented, but he believes it is now an accepted and beneficial part of the Town. He said he recognized the importance of preserving the character of Nederland and hoped that his proposal adequately addresses that concern. There are a variety of buildings, cultures, and people in this town, and this concept offers such a variety Mitchell said.

Mitchell and his designer, Brandon Smith, then proceeded to present a computerized virtual tour of 3D scenes at street level and above panning around the site. The project would use approximately 65% of the allowed buildable area. Since First Street is a small street; the development would include a 25' setback to allow for angled or back-in parking. From an aesthetic point of view, he would like to have some peaked roofs that would exceed the Town's 35' height limit. The proposal included two levels of public, underground parking proposed to be owned by the Town. The project would be built in phases, beginning with an apartment building with retail along the street frontage, so that current businesses could move in right away. The hotel portion would be in two phases. He said he plans to incorporate historical aspects of the town into the façade of the hotel, such as the façade from the theater that used to be on the south side of First Street back in the 1920s and the scalloped handrails reminiscent of the old Antlers Hotel where St. Rita's stands today. He said he is looking for more information on the historical story of the Antlers Hotel so that he can preserve the legacy and history on plaques inside. Phase 4 would be adjacent to the round-about and the last phase would include the parking.

Mitchell said his hope is that the project would relieve parking issues in town, and emphasized that this is a very initial idea to get the ball rolling and upon which he would like feedback. He said he doesn't anticipate being the developer on the entire project, but would like to get it started in the hope that if approved, someone else will finance the remaining phases.

Commissioner Cornell suggested he put this to public vote sooner than later to settle the matter from a community perspective once and for all. If the town is really going to redevelop, we need to determine how we get there, and he thought a referendum was a good idea. Town Administrator Reis said for a project of this size, it should come in as a conceptual PUD to make sure the concept fits, not only to that lot, but also fit the "flavor" of the town.

Chairman Martin agreed that due diligence is needed up front to compare to the code, design criteria, etc. He gave an example of the clock tower proposal for the new bike shop & café. That was a good opportunity to get into the design standards and code.

Reis suggested Mitchell work with staff on the needs for a conceptual PUD to present to the Planning Commission and then go present the concept also to the Town advisory boards so that a recommendation can be made to the Board of Trustees. Reis would recommend an inclusion of market analysis, so that the boards would understand the project's feasibility. Market based research is usually the first step for a project of this size she said. Staff can assist Mitchell with the PUD process.

The item was opened to public comment.

Stuart Horowitz, 590 West Pine Street and owner of 442 East 2nd (Magnolia Pottery), was present for public comment. His Magnolia Pottery building falls within this proposed project site. He wanted to state for the record he is not in support of the project and wanted to know where he would stand if a PUD was submitted or went on a public referendum. Chairman Martin explained that as an adjoining land owner he would be publically notified and would have a significant voice due to being a property owner next to the site. Reis said the usual the process to get onto a ballot is either a question submitted by an ordinance to the BOT for vote, or from a private owner to pay for the question due to the legal verbiage of adding questions to a ballot, or by a petition. The total package would be presented, based on the whole PUD phased concept. In response to questions about timing, Mitchell would propose putting the question on the ballot in two years' time.

There was no other public comment. Mayor Pro Tem Mueller was concerned about the ownership of these buildings over the next 50-100 years. The Town needs to be cognizant of the final build out and how it will be used in the future Mueller said. The Envision 2020 vision process discusses concerns on the deconstruction of buildings in 50 years, environmental concerns, energy consumption, etc. If the square footage increases, yet energy consumption

doesn't, that would address some of the concerns. The Town needs goals like these up front, which may require different design details for developers and Mitchell's concept plan could look quite different. Above all is the importance of the environmental impact, which Mitchell cannot address until engineering gets involved in the project. Mueller felt that if Mitchell could commit conceptually to a net zero increase in energy consumption, the plan would be better received by the public. Mitchell said he does plan to "build green" and has used innovative material in the past such as permeable parking. Chairman Martin opined that while energy and sustainability concerns are important, he feels that the drivers for approval of the project should be market analysis and feasibility and the needs of the community.

Brandon Smith, Mitchell's planner and designer, noted the inefficiency of the current buildings on 1st Street vs. Mitchell's proposal. He stated there is an importance to fill in empty blocks because stand alone buildings are less energy efficient as opposed to one large building.

Mitchell thanked staff and the Commission for their time and consideration and will be in touch with staff to continue the process.

b. Generation of guidelines governing the SRU process vis-à-vis parking lots.

Town Administrator Reis introduced and gave the background on this discussion item. Driven by the Thai Restaurant parking lot situation, the Board of Trustees has changed the code to make parking lots of 20+ spaces have their parking plans go through the Special Review Use (SRU) process rather than having to automatically pave such lots, as previously required by code. The Board of Trustees would like for the Planning Commission to draft a set of guidelines to govern the parking lot review portion of the SRU process. Mayor Pro Tem Mueller had provided some parking lot design standards recommendations from the Stormwater Manager's Resource Center, "Better Site Design Fact Sheet: Green Parking" for review. Reis and staff had looked around to other municipalities and didn't find anything specific to runoff and drainage for SRU processes. There are green parking lot codes that could be modified. Reis anticipates this taking the Commission some time to review and suggested providing recommendations back to the Board of Trustees in late January or early February.

Mueller stated that the parking lot design standards recommendations are all doable, but the Commission needs to address what is feasible. Currently, the Planning Commission struggles with undue burden on property owners. Hypothetically, if design standards aren't more restrictive, stormwater runoff could eventually ruin natural habitats. We have to strike a balance he said. Ideally, any new development that is proposed would not affect our streams if we had more restrictions in place. He said the point is to have developers share in the cost of addressing environmental impacts like stormwater runoff.

*****DRAFT – Not yet approved by Planning Commission*****

Commissioner Cornell agreed that yes, if not improved, ultimate consequences could affect a trout habitat, but the current need is to address the Thai Restaurant issues and the surrounding area. What quality of water should we allow to run off the property: have individual guidelines for individual projects or be more generalized? What is conceptually achievable? How much water could be retained?

Commissioner Jackson wondered where the 20 parking space number came from. Cornell thought it was an arbitrary number given as a political move at the time to reduce development within town. Jackson wondered how much guidance they were supposed to include, especially if this is just for the one restaurant. Mueller said the Board of Trustees brought this up because our Code doesn't really have anything established to address stormwater runoff concerns and they would like to use the Thai Restaurant as an example to start the process of updating the SRU code. Reis suggested the Planning Commission come up with three or four main goals then staff can really start drafting something up for review and approval.

Commissioner Williams stated there are so many factors to take into consideration such as the amount of rainfall, slope of the terrain, what are acceptable levels to go into the creek, and extreme events just to name a few. It would be hard to have a general guideline because of those variables, and rainfall up here will be different than other areas.

When the RTD park-n-ride lot was developed, the State had a hydrologist come up to analyze the area for the retaining pond, snow removal, etc. Usually the drainage plan that developers provide is per the site in question, not a generalized plan. The issue that the Town has is lack in qualification to review required drainage plans. We rely on the developer's engineer to develop the plan. The Town needs to establish the criteria/guidelines for those engineers to meet Williams said. Reis said Town staff currently includes such expertise in the Public Works Department. This staff member is the one who drafted the commentary that started this discussion, and is currently the lead for us at the Wastewater Treatment Plant on similar issues.

Martin agreed that the Commission needs to determine what is feasible and doable and come up with some simple guidelines for staff. Cornell jotted down a few guidelines, such as keeping it simple so it can be handled by staff, cost-effective, and determine what types of material could be used and what is available to us in Boulder County. There are differences between asphalt vs. road base and how traffic could dictate what material to use. Martin suggested since we are tied into Boulder County, to perhaps contact them to see if they have anything already established or resources we could use. Perhaps some written materials could be given to developers as to what material could be used, options on where to purchase material, guidelines, etc. that the county hands out and we could modify for Nederland. Reis said staff will put this information together and report back to the Planning Commission in January.

7) Other Business

a. Timing of December meeting

The Commission had a discussion about future agenda items and timing, and agreed to cancel the December meeting and hold the January meeting on its regular date, January 25th. There are no new applications for consideration at this time. The RFQ process for updating the Comprehensive Plan was awaiting budget approval. The 2012 budget is scheduled for review and approval on Tuesday, December 6th. The Commission will discuss this and other issues at their January meeting.

Kristen Edwards said her farewells to the group as she will be moving from Nederland, and introduced Michele Martin, who will be taking over her role as Deputy Clerk. Chairman Martin and the Commission thanked Kristen for all her hard work, her minutes, and her dedication to the Commission.

8) Adjournment

The motion to adjourn was made by Commissioner Cornell, seconded by Chairman Martin and unanimously approved at 9:37 pm.

Approved by the Planning Commission,

Bill Martin, Chair, Planning Commission

ATTEST:

Michele Martin, Deputy Town Clerk



AGENDA INFORMATION MEMORANDUM NEDERLAND PLANNING COMMISSION

Meeting Date: January 25, 2012
Initiated By: /s/ Alisha Reis
Dept: Planning & Zoning
Action _____ Discussion

AGENDA ITEM: Consideration of a request by resident Jacklyn Jones to amend Section 16-76 (Home Occupations) of the Nederland Municipal Code to allow for a bed and breakfast

SUMMARY:

Section 16-76 of the Nederland Municipal Code governs home occupations. Included within the section is a list of specifically prohibited businesses that may be undertaken as a home occupation. Beds and breakfast are among them.

Jones, a resident of 103 Sundown Trail, wishes to open a bed and breakfast enterprise in her home that would include two or three rooms for rental each year between June and October. According to her attached letter, less than 900 square feet of her home would be dedicated to the use, of an overall 2,186 square feet. The home occupations code limits in-home business to 50 percent of the floor space.

Jones' home is in the Low Density Residential (LDR) zoning district. Home occupations are permitted in this zoning district. Bed and breakfast businesses are not specified within the use chart (NMC Section 16-31).

Town staff has received a number of inquiries from residents regarding the allowance of beds and breakfast in town. Most have come from the Big Springs neighborhood. Town staff let them all know such businesses were not permitted in residential areas and were specifically prohibited under the home occupations code. When Ms. Jones contacted the Town to inquire about the same thing, she was also given this information by Town staff. She asked about her options for trying to change the code, and thus, agreed to write a letter specifically seeking this action at the Planning Commission.

Ms. Jones is expected to be present at the Jan. 25 meeting to answer any questions of the commission.

HISTORY AND PREVIOUS BOARD ACTION:

In July 1997, the Board of Trustees adopted Ordinance 454, which created the list of specifically prohibited businesses as a home occupation in Nederland. Among the list were bed and breakfast enterprises.

RECOMMENDATIONS:

That the Commission considers whether it wishes to formally review the home occupations code related to beds and breakfast, or perhaps, the code overall.

ATTACHMENTS:

- 1) Letter of request by Jacklyn Jones
- 2) Neighborhood map, with zoning
- 3) Section 16-76 Home Occupations

FINANCIAL CONSIDERATIONS:

None

For Jan. 25 PC

**Respectfully submitted to the Nederland Township Planning Commission
by Jacklyn J. Jones
103 Sundown Trail
Nederland, Colorado**

Request for changes in Chapter 16-76 to allow a Bed and Breakfast in my home during the months of June through October of each year

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:

A Bed and Breakfast would, by its very nature, include short term occupying of non family members, for fees.

(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.

The Bed and Breakfast will not change the character of the home. Two or three spaces in the home shall be available for nightly or weekly occupation for fees.

No structural changes will alter the appearance of the home.

(3) The total area used for such purposes shall not exceed one-half (1/2) the floor area of the user's dwelling unit; accessory structures and attached garages may not be considered under this provision.

At the most, three spaces in my home will be available to Bed and Breakfast guests. The sum of the three spaces is 894.25 square feet. The total square footage in my home is 2186.

(4) There shall be no exterior advertising other than identification of the home occupation. Such identification sign shall not exceed five (5) square feet and shall comply with all other requirements of the code. Any other method of advertising shall not solicit or direct persons to the address.

The size limitation of the sign will be adhered to and the sign will be of good quality.

However, I will seek to advertise extensively.

- (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:

This should not be a problem.

- (6) There shall be no exterior storage on the premises of material, customer property or equipment used as part of the home occupation;

This should not be a problem.

- (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 family dwelling unit (SFDU) – ten (10) trips per day is the average TPD for a SFDU:

I have a large driveway with ample room for parking. The TPD should be in the range of expectation as well.

- (8) The structure with the home occupation is in the F. MR, LDR, MDR or HDR zone.

Although I don't know what some of these zoning codes are, I am certain that there will be a need for a zoning change.

- (9) The home occupation shall not include:

d. A Bed and Breakfast.

This is what I am proposing to establish for the months of June through October of each year.

As an addendum, if permitted, I would like to plead my case.

I am a widow with a lovely home. My husband and I were married for 44+ years. We had this home built for us in 1993. During the last 6 years of my husband's life he had Alzheimer's Disease. He had paid on a life insurance policy which would have left me financially comfortable for 27 years. However because of his Alzheimer's he forgot to pay many of our bills, including the premiums for his life insurance. He died in March of 2009.

I am currently paying a lawyer a substantial amount of money to try to recover some of the life insurance but at this time, I have still received nothing.

I feel that I need added income to maintain and upgrade the property, such as routine exterior painting, structural upkeep and I would like to pave my driveway to make it more attractive and easier to maintain.

Our mortgage is paid in full and there are no loans or liens against the value of the property.

The added income would be a benefit to my financial stability for the future and I think the time is right for Nederland to have a Bed and Breakfast.

I would make a concerted effort to promote the tourist opportunities in the area. I could highlight local businesses, to include a loose leaf notebook of local businesses with their advertising included at no cost to them. I could also provide menus from the many local restaurants, again at no cost to them.

I believe that the impact to the neighborhood would be minimal. It could even be a nice resource for neighbors when they have out of town guests.

**Respectfully,
Jackie Jones**

Neighborhood Map with Zoning 103 Sundown Trail (highlighted)



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 (½) the floor area of the user's dwelling unit; accessory structures and attached 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 five (5) 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.
- (10) In the event that there is a requested home occupation that is not clearly permitted or prohibited, the Planning Commission shall review and recommend and the Board of Trustees shall finally determine whether the particular home occupation is consistent with this Section for classification as a home occupation.

(b) Prior to enforcement of this Section through the Municipal Court, the alleged violator shall receive notice as follows:

(1) A written statement to the Zoning Administrator by a citizen explaining what provisions of this Section the property owner is allegedly violating; and

(2) If the Zoning Administrator determines that there is a violation of this Section, the Zoning Administrator shall provide a written warning to the property owner and the occupant by certified mail and by posting on the door of the property of the violation and that the violator has thirty (30) days to bring the home occupation into compliance or discontinue the home occupation. (Ord. 209 Art. IV §7, 1981; Ord. 435 §1, 1996; Ord. 454 §1, 1997; Ord. 645 §14)