



Nederland Planning Commission

AGENDA

Wednesday, February 22, 2012 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

- 1) Call to Order**
- 2) Roll Call**
- 3) Approval of minutes from January 25, 2012**
- 4) Public Comment**
- 5) Discussion Items**
 - a. SRU parking lot guidelines**
 - b. B&B review (Home Occupation Code)**
- 6) Other Business**
 - a. RFQ submissions for Comp Plan (Scoring instructions)**
- 7) Adjournment**



Nederland Planning Commission

MINUTES

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

1) Call to Order

Vice Chairman Larsen called the meeting to order at 7:00 pm.

2) Roll Call

Present: Commissioners Kris Larsen, Denise Jackson, Roger Cornell, Mikki Osterloo and Steve Williams

Also present: Town Administrator Alisha Reis and Deputy Town Clerk Michele Martin

Absent: Chairman Bill Martin and Mayor Pro Tem Kevin Mueller

3) Public Comment

There was no public comment.

4) Approval of minutes from November 30, 2011

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

5) Discussion Items

- a. Discussion of a Bed & Breakfast home occupation use in a LDR zone, 103 Sundown Trail

Jacklyn Jones of 103 Sundown Trail was present to ask the Commission to consider amending Chapter 16 of the Nederland Municipal Code to allow for a bed and breakfast (B&B) in her LDR zone. Ms. Jones had sent a letter of request to the Commission in January and the board acknowledged they had received and read it.

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Ms. Jones went on to defend her position in that it was a good time for Nederland to have a B&B, it would be a good use of her property, and it would be a low impact on her neighborhood.

Commissioner Larsen asked how many guests she would plan to have and she commented that she had two to three parking spaces and one room upstairs and one room downstairs, so a total of two to three couples at one time.

Town Administrator Reis stated that for the past 1 ½ years there have been other requests for B&Bs, mainly from the Big Springs neighborhood, yet Ms. Jones is the first that has been willing to come before the Commission to request this code amendment.

Commissioner Cornell was on the Planning Commission back in 1997 when residents from the Big Springs area had requested a B&B. They came in with a formal proposal with pictures and drawings. The Commission had reviewed criteria at that time and staff had created a new ordinance taking all the input from the discussion, which was then approved by the Commission. In 2006, the Planning Commission reviewed Chapter 16, line by line, and brought it up to date, including the list from 1997, which reaffirmed that list. It then went to the BOT for their approval.

Commissioner Jackson asked Ms. Jones how she would feel if the code was amended and other families opened up B&Bs as well. Ms. Jones said she'd have to be ok with it.

Commissioner Osterloo worried about traffic, especially if B&Bs were allowed in the Big Springs neighborhood.

Cornell suggested that perhaps Ms. Jones could take on a roommate at her house, which is allowed, as opposed to a B&B, which would have different people every weekend, and is a lot of work. Ms. Jones said she would prefer to have different people come and go.

Larsen wondered what the difference was between a B&B and a vacation rental. Reis said that vacation rentals would be viewed similar to B&Bs while rental units fall under a different section of the code.

Cornell reiterated that LDR is zoned low density residential for single family homes and that there is a reason why we have zoning regulations. He suggested that we should look at all the different situations that could occur, such as people arriving late at night with their car headlights, moving luggage around, and knocking on neighbors' doors wondering where the B&B is, etc. Larsen, from previous personal experience, suggested that B&Bs normally bring in a more mature type of tourist, more economy for towns, and provide greater commercial growth.

Commissioner Williams asked if B&Bs need a Business License and Reis stated that they would, as well as a Home Occupation License and they are

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both revocable if needed. Home Occupation License inspections look for 50% or less of the total area used for business, how to manage parking, etc. Business License inspections look for safety and if the dwelling is up to code.

Jackson believes the restriction is in the code for a reason and that a B&B is not appropriate for single family homes. She agreed with Commissioner Cornell, that economically, it may be better for a rental instead of creating a B&B.

Cornell stated that the County Health Department would also have to be involved for the food that would be served.

Williams wondered what other licenses or permits would be required and Reis said there was no requirement at the State level, yet there are different B&B associations that people belong to. Anything that is not specifically prohibited in our Home Occupation Code may need to come before the Planning Commission for SRU.

Reis reminded the Commission that their motion tonight is basically to direct town staff to review the Home Occupation code in order to include B&Bs in different zoning regions, or to direct town staff not to work on this and let the code stand as is. They cannot vote on Ms. Jones' request because the Code does not allow for a B&B. The Use Group Table needs to be updated in the code because a B&B is not listed there, amongst other uses. This has been added to the list of updates needed for the Code.

A motion was made to request staff/Zoning Administrator to review, update, and make recommendation to the Home Occupation Code, especially related to B&Bs, by Commissioner Cornell, seconded by Commissioner Williams and approved by Commissioners Larsen, Osterloo, and Williams with Commissioners Cornell and Jackson voting against. Reis anticipates having something prepared by the next meeting.

6) Other Business

Town Administrator Reis gave an update on last meeting's agenda item, stating that the BOT did approve the King Place amendment to remove the restriction on conveyance, and did uphold their decision to deny the applicant's request for a hardship variance on the well.

The SRU guidelines for parking lots are still being worked on by town staff, and are planned for February's agenda.

Reis had prepared a tentative schedule of the RFQ process for the Comprehensive Plan updates and distributed it to the Commissioners by hard copy. She is looking to issue it January 27th, get responses back by February 13th and be able to review responses with the Commission at their February 22nd meeting. This timeline gets us to project startup in May which should

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then not interfere with the current Parks and Rec Plan update taking place at this time. Also the Parks and Rec Plan update mail survey results will be important to incorporate into the Comp Plan update. Those results will be heard at a public meeting on February 23rd at 7:00pm at the Community Center. The survey being put together for the Parks and Rec Plan update will be prepared by a professional surveying firm with a scientific approach and process.

Also, the Joint Work Session/dinner with the BOT has been postponed from January 25th to February 22nd at 6:00pm. Commissioners Cornell and Jackson will not be able to attend. Staff will send around the agenda prior to the meeting and will ask for feedback from those not able to attend.

7) Adjournment

A motion to adjourn was made by Commissioner Larsen, seconded by Commissioner Jackson and unanimously approved at 7:36 pm.

Approved by the Planning Commission,

Kris Larsen, Vice Chairman, Planning Commission

ATTEST:

Michele Martin, Deputy Town Clerk



AGENDA INFORMATION MEMORANDUM NEDERLAND PLANNING COMMISSION

Meeting Date: February 22, 2012

Initiated By: /s/ Alisha Reis

Dept: Planning & Zoning

Action _____ Discussion _____

AGENDA ITEM:

Discussion of SRU parking lot guidelines (resulting from changes to Nederland Municipal Code Section 16-210 regarding parking lots of 20+ spaces)

SUMMARY:

Attached is Ordinance 698, approved by the Board of Trustees on Nov. 1, 2011, to amend NMC Section 16-210 to designate parking lots of 20+ spaces as a Special Review Use (SRU). The Board then directed the Planning Commission to draft guidelines for review specific to these lots.

Public Works has reviewed the concept of accepting unpaved or alternately paved lot designs. Public Works Manager Jason Morrison said he supports designs that are most likely not to wash away in storms and deposit material into drainage ways. Items such as permeable pavers and set-in-place materials are most recommended. He does not support recycled asphalt, unless it is mixed with oil and spread like traditional asphalt, as it tends to move and redeposit in drainage areas as a fairly significant pollutant. Loose gravel needs a lot of attention to keep it in place, so plans would be necessary to contain it as best as possible, with the recognition it would need to be refilled.

Given that the code requires adequate drainage on site. Town staff would recommend adding drainage plans and alternative materials plans to the SRU application requirements. Additionally, Town staff review or outside geotechnical expert review (if no longer contained on staff in the future) should be required in order to offer opinion on the site-by-site viability of parking lot proposals and drainage plans. The Town will be undertaking a Master Infrastructure Plan (including drainage study) in 2013. Any parking SRU approval should be congruent with it. Town staff recommends these requirements only be added to the existing SRU approval criteria in order to maintain the flexibility needed for the case-by-case study of these lots, with particular attention paid to drainage mitigation.

Influence of Comprehensive Plan, Envision 2020

Envision 2020 speaks heavily to environmental preservation, including the use of alternative building materials and preservation of clean water, both of which can be supported by the application of these new parking lot design guidelines.

The 2003 Comprehensive Plan addresses the issue in a number of ways:

- 1) “The Town should make every effort to identify and mitigate, or eliminate all together, the adverse impact of any economic activity, including non-resident visitors. In those instances where a negative impact exists, the Town should work with the business to mitigate the impacts to acceptable levels.”
(Economic Policy Statement, pg. 18)
 - a. This policy is met as Planning Commission reviews large lots on a case-by-case basis and may seek to enact conditions to allow for better drainage and erosion control on sites.
- 2) “The Town discourages outdoor irrigation of non-native, water intensive grasses such as Kentucky bluegrass, exotic trees and shrubs, and large garden.” (Water, pg. 19)
 - a. This policy would regulate the use of various landscaping in connection with parking lot design.
- 3) “The Town should be concerned with the protection of natural drainage ways, prevention of erosion, minimizing of public and private property damage from storm drainage and flooding, and the maintenance of surface water quality.”
(Utilities Policy Statement, pg. 22).
 - a. This policy is clear, encouraging consideration for drainage management at all opportunities.

HISTORY AND PREVIOUS BOARD ACTION:

On September 28, 2011, the Commission voted to recommend to the Board of Trustees changes to NMC Section 16-210 to allow for case-by-case (SRU) review of the previous requirement to pave parking lots of 20+ spaces.

The Board of Trustees voted to approve the recommended changes on November 1, 2011. Also at that time, the Trustees requested the Planning Commission to draft guidelines specific to review of parking lot SRU applications, including consideration of drainage conditions on the individual sites.

RECOMMENDATIONS:

Given that only four Commissioners are expected to attend the meeting of February 22, Town staff recommends the Commission receive this updated information and ask any questions you may have. In-depth discussion would be more productive at a later date, when the full Commission may be present.

ATTACHMENTS:

- 1) Ordinance 698, adopted by the Board of Trustees on Nov. 1, 2011
- 2) Minutes of Nov. 1, 2011 Board of Trustees meeting
- 3) Minutes of Oct. 18, 2011 Board of Trustees meeting
- 4) Minutes of Sept. 28, 2011 Planning Commission meeting
- 5) SRU code section

FINANCIAL CONSIDERATIONS: Gravel and leveled dirt lots are exceedingly less expensive than paved lots – for example, a standard 20-space gravel lot of 3” would cost about \$10,000 vs. about \$60,000 for new asphalt paving. However, additional drainage engineering and construction would add cost to unpaved or alternately paved lots.

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 698

AN ORDINANCE AMENDING SECTION 16-210 OF THE NEDERLAND MUNICIPAL CODE CONCERNING PARKING LOTS CONTAINING MORE THAN TWENTY (20) SPACES

WHEREAS, pursuant to C.R.S. § 31-23-301, the Board of Trustees (“Board”) of the Town of Nederland, Colorado (“Town”) possesses the authority to create regulations and restrictions concerning planning and zoning within the Town; and

WHEREAS, under this authority, the Board previously adopted Ordinance 209 requiring all parking lots containing more than twenty (20) spaces to be paved; and

WHEREAS, paving increases the amount of impervious surfaces in Town, and can create drainage issues for neighboring properties; and

WHEREAS, the Board finds that it is desirable and prudent to review each proposed parking lot of twenty spaces or more on a case-by-case basis to determine whether or not paving is desired based on the specific circumstances of each case;

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Section 16-210 of the Nederland Municipal Code, concerning parking lots containing more than twenty (20) spaces, is hereby amended as follows:

Sec. 16-210. Design Standards.

Parking lots containing more than twenty (20) spaces shall be ~~paved~~ designated as Special Review Uses. Adequate drainage facilities shall be provided. Curb or wheel stops shall ~~shall~~ may be provided.

Section 2. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 3. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS 1st DAY OF NOVEMBER, 2011.

TOWN OF NEDERLAND, COLORADO



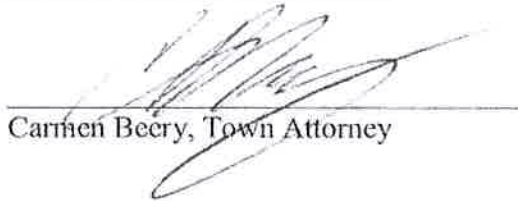
Joe Gierlach, Mayor

ATTEST:



Teresa Myers, Town Clerk

APPROVED AS TO FORM:



Carmen Beery, Town Attorney



**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
November 1, 2011, 7:00PM**

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

A. CALL TO ORDER

Meeting convened at 7:02 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Mayor Pro Tem Kevin Mueller, Trustees Chris Perret, Randy Lee, Annette Croughwell, and Peter Fiori.

Also present: Alisha Reis, Town Administrator, Teresa Myers, Town Clerk, Eva Forberger, Town Treasurer, Carmen Beery, Town Attorney, and Public Works Manager Jason Morrison.

C. CONSENT AGENDA

- Approval of November 1, 2011 Accounts Payable Part A, excluding Check #25730.
- Approval of November 1, 2011 Accounts Payable Part B, including Check #25730.
- Approval of October 14, 2011 Regular Meeting Minutes
- Approval of Ordinance 698, amending N.M.C. 16-210 Design Standards (Parking Lots)
- Approval of Agreement with NedCompost for location of Earth Tubs at Public Works

Shop, 750 W. 5th St.

Trustee Lee asked that Ordinance 698 be pulled out from the rest of the Consent Agenda and considered separately.

Motion to approve the Consent Agenda with Minutes, Accounts Payable Part A, and the NedCompost Agreement was made by Trustee Lee, seconded by Trustee Perret, and approved unanimously.

Motion to approve the Consent Agenda with Accounts Payable Part B was made by Trustee Perret, seconded by Trustee Fiori, and approved unanimously. Trustee Lee abstained.

Trustee Lee noted his concerns that a guideline be generated prior to the adoption of Ordinance 698. Town Administrator Reis explained that her understanding was that the guidelines would be created by the Planning Commission. Trustee Lee wanted the direction that the Planning Commission draft such guidelines included in the Ordinance and asked for Town Attorney Carmen Beery's opinion. Beery responded that such direction would not be appropriate in the Ordinance but that the Ordinance could be revisited as the Planning Commission moved forward.

Mayor Gierlach opined that the standard should concern water runoff rather than number of parking lot spaces.

Motion to approve the Consent Agenda, Ordinance 698, was made by Trustee Perret, seconded by Trustee Lee, and approved unanimously.

D. PUBLIC COMMENT ON NON-AGENDA ITEMS (Speakers limited to 3 minutes)

Greg Willson, of Nederland, thanked the Board for its support of the NedCompost program and updated the Board on further progress made to expand composting service and iron out details. He also talked about the SAB scorecard that was included in the packet for consideration with the sidewalk IGA.

Patricia Everson, of Nederland, spoke to her concerns about the DDA finances and compliance with state laws. Specifically, she raised the question of why the DDA is not complying with the direction of the Town's bond attorney, who was especially retained for the purpose of rendering an opinion on the DDA's tax-incremental funding.

Carla Slaughter, of Nederland, read the following comments into the record:

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
October 18, 2011, 7:00PM**

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

A. CALL TO ORDER

Meeting convened at 7:03 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Mayor Pro Tem Kevin Mueller, Trustees Chris Perret, Peter Fiori, Randy Lee, and Annette Croughwell

Also present: Alisha Reis, Town Administrator, Eva Forberger, Town Treasurer,

C. CONSENT AGENDA

- Approval of October 18, 2011 Accounts Payable.
- Approval of October 4, 2011 Regular Meeting Minutes
- Approval of Guaranteed Maximum Price for Wastewater Treatment Plant construction project

Mayor Pro Tem Mueller asked several questions about the GMP, which were answered by Mike Pelphrey, from Aslan Construction, and Reis. Trustee Lee asked some questions about how the GMP was reached and what it included.

Motion to approve the Consent Agenda was made by Trustee Perret, seconded by Trustee Fiori, and approved unanimously.

administrative items, such as the PTO questions, should be the domain of the Town Administrator and the Board should not involve itself. Mayor Pro Tem Mueller asked some questions about the Leave Without Pay policy. Reis made a correction to the agenda memo, noting that the final draft would not likely come before the Board until December 6th.

2. Discussion of proposed change to Municipal Code Section 16-210, requiring paving of parking lots of 20+ spaces.

Reis introduced the item, explained the existing Code requirement, the issue's history before the Planning Commission, and the Commissioner's recommendation to make certain changes to the Code. Mayor Pro Tem Mueller provided some detail about the Planning Commission's deliberations and rationales.

The Board talked about the drainage issues caused by paved parking lots and the potential for inconsistency in application on a case-by-case basis.

Trustee Fiori spoke out in support of the case-by-case review, and argued that one of the benefits of a small town is that we don't have the volume of cases to worry about overwhelming staff or advisory boards. Trustee Croughwell stated that she was concerned with surprising business owners with steep fees that they weren't expecting.

Trustee Perret argued against a case-by-case review of parking on the basis that it doesn't create consistency and reasonable expectations for all business owners. He stated that the variance process already exists for those businesses that want an exception. Trustee Fiori pointed out that the issue before the Board was not the number of spaces per business, but whether those spaces must be paved.

Motion to extend the meeting until 10:15PM was made by Trustee Perret, seconded by Mayor Gierlach, and approved by unanimous voice vote.

J. OTHER BUSINESS

There was no Other Business

Nederland Planning Commission

MINUTES

Wednesday, September 28, 2011 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

The Chair called the meeting to order at 7:12PM.

2) Roll Call

Present: Chairman Bill Martin, Commissioners Kris Larsen, Denise Jackson, and Mikki Osterloo; Mayor Pro Tem Kevin Mueller.

Also present: Town Administrator Alisha Reis, Town Clerk Teresa Myers

Absent: Commissioners Roger Cornell and Steve Williams

3) Public Comment

Atashnaa Werner, of Greater Nederland, spoke in favor of affordable housing for seniors in Nederland. She had previously forwarded materials and comments to the Commission, and she expounded on those. She also spoke about her feelings that her comments to Envision Nederland 2020 committee regarding subsidized senior housing were “word-smithed” and altered so as to lose their emphasis. She is hopeful that the Commission will consider subsidized housing for low-income seniors in the Peak to Peak community in its review of the Comprehensive Plan.

The Commissioners noted that they did not receive the materials Werner referenced and she offered to get them to the Commission

Chairman Martin explained the Comprehensive Plan process a bit and invited Werner to continue to dialogue with the Commission as the process continues.

Werner noted that many residents of the Greater Nederland Community contributed to the envisioning process and hopes that their concerns will be reflected in the Comprehensive Plan.

Ron Mitchell, of Nederland, explained that he was attending the meeting to show his support for the resigned mayor and the Town staff, and explained that he would be bringing his next development proposal to a town vote.

4) Approval of minutes from August 24, 2011

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

5) Action Items

- a. Consideration of change to Nederland Municipal Code Section 16-210 requiring paving of parking lots of 20+ spaces

Town Administrator Alisha Reis introduced the item and explained that it was before the Commission because staff felt that a recent planning application justified specific review of the policy codified in this section. Staff feels that the bright-line rule contained in the section at issue is not in accord with the Town's sustainability goals and will create drainage problems for the most recent applicant to whom it was applied. Staff recommends a case-by-case analysis, similar to an application for Special Review Use, with emphasis on sustainability, drainage, and aesthetic concerns. Reis explained how the sample application would proceed without a change in the Code, and the Town Attorney's legal interpretation of the current language.

Chairman Martin reminisced about an earlier situation that posed the same question but was never particularly resolved and ultimately became moot. Commissioner Jackson asked if the Code included a definition of "paved," and was informed that it does not.

The Commission appreciated the Public Works memo and the perspective it offered. Chairman Martin commented on how this paving would contribute to drainage issues further downstream in the downtown area.

Mitchell shared his recollection of how the 20-spaces requirement came to be. According to his memory, the requirement was adopted as an anti-development, anti-growth measure. Mitchell argued that the current economic climate demands a new approach.

Commissioner Jackson expressed her support for changing the code to meet the staff recommendation. Commissioner Osterloo felt the paving requirement is not necessary and drainage is of greater importance. Chairman Martin and Commissioner Larsen agreed. Mayor Pro Tem Mueller noted that this is an opportunity to try to fix this portion of the Code, and to examine what constitutes a sustainable parking lot. He wondered if the DDA would be willing to match funding for a more sustainable design for such a prominent location in Town.

Mitchell asked that he be allowed to provide a 20-minute presentation to the Commission to discuss parking issues in Town, and Chairman Martin agreed that it would be useful to hear his presentation. Mitchell offered some examples of the recommendations he could provide. Mitchell noted that the anti-development goal of the original ordinance was achieved.

Chairman Martin noted that the Code needs to include a definition of "paving" and should reflect drainage and permeability concerns. Commissioner Jackson disagreed, suggesting that the paving definition should be left alone and the focus should be on the case-by-case basis via the SRU process.

Mayor Pro Tem Mueller suggested that a broader Code change involving parking should reflect the Comprehensive Plan and be scheduled for consideration immediately following that adoption. He also made requests of Mitchell for items to be included in his presentation.

The Commission agreed that Mitchell would provide a presentation on the agenda at the next meeting.

Commissioner Jackson asked if the handicapped spaces must be paved and Reis explained that federal law does require that the spaces be hard surfaces, but that it doesn't appear to require non-permeable surfaces.

The Commission agreed to support a change in the Code to a case-by-case Special Review of Use. The Commission further directed

Reis to work with Mitchell to address some of the Public Works suggestions and concerns in the short term. Reis explained to the Commission that if the Code change was adopted, the sample application would come before the Commission sometime before the end of the year.

The Commission also talked about the possibility of DDA involvement in areas that are of public concern. Mitchell informed the Commission that DDA funds can be used on private property, as long as the project does not benefit the property owner more than the public at large.

The Commission then worked to draft language for a Code amendment to the section in question and agreed upon "Parking lots containing more than 20 spaces shall be designated as Special Review Uses. Adequate drainage facilities shall be provided. Curbs or wheel stops may be provided."

The motion to approve recommending the amended language for N.M.C. Section 16-210 to the Board of Trustees was made by Commissioner Jackson, seconded by Commissioner Osterloo and approved unanimously by hand vote.

6) Discussion Items

a. Nederland Comprehensive Plan update - Review of draft RFQ

Reis introduced the item and explained the document that was before the Commission. Commissioner Larsen had some concerns about specifically including the incorporation of The Natural Step process as a required element of the Comprehensive Plan. Mayor Pro Tem Mueller explained in greater detail The Natural Step's principles and argued for its inclusion in the RFQ. Commissioner Larsen suggested that it would be better to allow the consulting firm applicants to raise the point themselves, rather than having it as part of the RFQ. Commissioner Jackson argued that sustainability should not be the primary consideration in evaluating an applicant's qualifications. Chairman Martin talked about whether the sustainability issue should be the pivot on which all else moves or but a single factor for consideration, woven throughout the selection process and the Plan.

Mayor Pro Tem Mueller pointed out the Board of Trustees has adopted the Envision 2020 report and that such adoption serves as a

ARTICLE III

Special Review Uses

Sec. 16-51. Purpose.

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. (Ord. 209 Art. III §1, 1981; Ord. 645 §7, 2008)

Sec. 16-52. Application.

(a) An application for approval of a special review use may be filed by a person having an interest in the property for which the special review use is requested, with the written consent of the owner, and shall be made on a form provided by the Town. The application must include twelve (12) copies of the following:

(1) A complete site plan illustrating:

- a. Adjacent land uses and location of adjacent structures, including all adjacent natural features that will be impacted by the use.
- b. Boundary and size of site.
- c. Building location, height and setbacks.
- d. Off-street parking and loading areas.
- e. Points of ingress and egress.
- f. Service and refuse areas.
- g. Signs and exterior lighting.
- h. Fencing, landscaping and screening.
- i. Compliance with performance standards.
- j. Anticipated utility requirements.
- k. North arrow reference.

(2) A time schedule for development.

(3) Explanation of how the project furthers the purposes of the Comprehensive Plan.

(4) Other information the applicant believes will support the application.

(b) The applicant shall furnish a list of the names and addresses of owners of property located within three hundred (300) feet of the subject site.

(c) Upon review of the application, the Planning Commission may determine that additional information is critical to its evaluation of the application. The applicant shall be responsible for furnishing such additional information if so requested.

(d) The applicant shall pay a nonrefundable special review use application fee set forth in Section 4-151 to the Town upon submission of the application to cover processing costs of the Town. In addition to the fee, the Town may bill the applicant for costs incurred by the Town for necessary legal, planning, engineering and other technical review of the application. Said costs shall be paid in full prior to final consideration of the application by the Board of Trustees. The cost of an election and any legal fees incurred by the Town related to such election shall be paid by the Town should an appeal to the electorate be initiated through citizen referendum petition.

(e) The Board of Zoning Adjustment shall determine all uses which are not specifically listed in Section 16-32(c). (Ord. 209 Art. III §2, 1981; Ord. 382 §2, 1994; Ord. 552 §3, 2001; Ord. 645 §8, 2008)

Sec. 16-53. Coordination with planned unit development plan approval.

If the proposed special review use is submitted as part of a planned unit development plan, the provisions of this Article shall be met through approval of the planned unit development plan. Whichever restrictions are more restrictive or impose higher standards or requirements shall govern. (Ord. 209 Art. III §3, 1981; Ord. 645 §9, 2008)

Sec. 16-54. Processing of application.

(a) The applicant shall submit the complete application to the Zoning Administrator. Upon finding the application complete, the Zoning Administrator shall submit the application to the Planning Commission along with documentation of all issues discussed and any proposed resolutions suggested up to that point.

(b) Within thirty (30) days of receipt of the application from the Zoning Administrator, the Planning Commission shall hold a public hearing to consider the application. Public notice of the hearing shall be published in a newspaper of general circulation within the Town at least fifteen (15) days prior to such hearing. Additionally, owners of property within three hundred (300) feet of the subject property shall be notified of the public hearing by first class mail and the property shall be posted at least fifteen (15) days prior to the hearing along the part of such property fronting on a street.

(c) Within thirty (30) days following the public hearing or within such time as is mutually agreed by the Planning Commission and the applicant, the Planning Commission shall either recommend