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EDITOR'S PICK FEATURED

County Commissioners halt new development in downtown Niwot

By Jocelyn Rowley and Vicky Dorvee Editorial@LHVC.com Sep 27, 2018



The mixed-use Southpaw Commons development at 240 Second Avenue drew the ire of neighbors on 3rd Avenue earlier this year.

Photo by Vicky Dorvee

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Southpaw Commons Underway

In an unannounced move at their Sept. 20 business meeting, the Boulder County Commissioners imposed a six-month moratorium on new development applications in the Niwot Rural Community District (NRCD), the three-block span of Second Avenue that comprises the downtown commercial zone.

Citing concerns from community members about the pace and scope of new building in the district, commissioners Elise Jones and Cindy Domenico agreed to the temporary halt in order to give county planning staff time to review and amend existing Land Use Code regulations pertaining to the area, which haven't undergone a substantial revision since they were first adopted in 1993. (Commissioner Deb Gardner was excused for the day.)

“The impetus for this is to provide clarity in regulations which are a quarter of a century old, and don’t provide the kind of guidance on community character and design that some of the residents of Niwot are asking us to provide.” Elise Jones said during discussion of the measure.

“This is not an insignificant step to take,” Jones said. “It’s happening pretty quickly, but given the uniqueness of the Niwot community... it’s a very special place with a special character. The fact is we really have pretty outdated regulations around that ...It does make sense to move forward with this to make sure we get it right, and ensure that Niwot continues to be that special place we know and love.”

In particular, planning staff is looking to update guidelines concerning mixed-use development and “clarify the intensity of development appropriate within the NRCD,” according to language in Resolution 2018-112, which imposes the terms of the moratorium. It goes on to state that concerns from neighbors about “the level of residential development allowed, density and design parameters, and whether the NRCD regulations facilitate the appropriate mix of residential, retail, and office uses,” will also be addressed in the upcoming amendment process.

News of the moratorium came as a surprise to almost all of the local stakeholders, including Laura Skaggs, who serves as a member of the Niwot Design Review Subcommittee, a nine-member panel created specifically to serve as a local advisor on design and aesthetics to the county’s Historic Preservation Board. However, it has no legal authority, so any decision made by the subcommittee is strictly advisory.

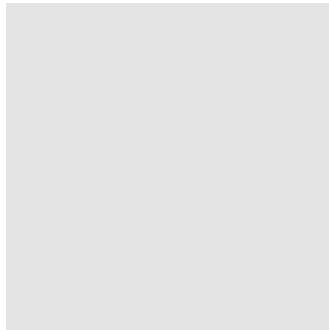
The subcommittee has been dormant for several years, but was revived earlier this year at the behest of the county in the wake of the Southpaw Commons development at 240 Second Avenue, which raised objections from some residents of Third Avenue.

“I was more than surprised to hear of the moratorium,” Skaggs wrote in response to questions from the Courier. Skaggs added that she had not been in contact with any other members of the subcommittee since learning of the decision, and could only speak for herself. “When our committee left our last meeting with County Land Use staff in late August, I believed they had taken a moratorium off the table. We were told by a Land Use official that a moratorium was only used ‘rarely and in extreme circumstances.’”

Skaggs wasn’t the only one to complain about mixed messages from the county around this issue. Anne Postle, owner of Postle Properties IV and developer of Southpaw Commons, said a recent conversation with Land Use Director Dale Case also had her convinced that the county was no longer seeking a moratorium.

“I think it was a very deceptive and sneaky process,” Postle said. Resolution 2018-112 was “walked on” to the commissioner’s agenda at the end of their Sept. 20 meeting by Liz Cross of the County Attorney’s office and Denise Grimm of the Land Use Department, with no advance notice. “They gave no thought to how this affects the property owners. It’s a commercial moratorium, and they did not talk to any commercial property owners.”

Case said he didn’t recall their conversation the same way Postle evidently does, but understands her frustration with the moratorium.



Another recent development in the NRCD at the corner of Second Ave & Murraray St. Photo by Vicky Dorvee

“It is not something that we relish doing,” he said. “We want to try to keep things moving forward, and understand that the property owners have potential projects and don’t want to get held up. At the same time, we’ve looked at the concerns we’ve been hearing and looked at when these regs were last in the broader community conversation

about what was occurring in that area. We want to come up with something that works for the community, that is predictable for the developers, and meets those community goals.”

Case said he expects robust participation in the public input part of the review process, and county officials plan to reach out to property and other business owners in the coming weeks. As for its last minute appearance on the commissioner’s agenda, Case said he would have preferred bringing the item up on a more normal timeline, but felt he had to expedite the Resolution when they did in order to prevent even further delays.

“I try to avoid contention, because everyone’s jobs are hard enough,” he said. “The idea is to try and make things work for everybody as smoothly as possible....Decisions we make today will be in place for a long time.”

Postle, an architect by trade, said that she has delayed going forward with her mixed-use project in the 200 block of Second Avenue in order to address concerns from her neighbors, including those they brought before the county.

“I’m trying to evaluate that right now,” Postle said of her plans going forward. “Had I known there was a moratorium in the works, I would have submitted months ago. But now I’m stuck.”

Efforts to speak with Bob Von Eschen of Von's Colorado Concepts were unsuccessful. Von Eschen's company also has proposed a mixed-use development in NRCD involving the property occupied by Lefty's Pizzeria and the former Niwot Dental building next door.

Residents of 3rd Avenue, who are directly impacted by development efforts along the north side of the NRCD, had a decidedly different take. An anonymous homeowner on 3rd Avenue reacted to the news by saying, "The regulations are all out of date and things are changing in Niwot. The alley study was done in 1996, and we need to take another look at it. All of my neighbors are on the same page about this."

Victoria Keen, another resident of 3rd Avenue whose house backs up to NRCD, reacted by saying, "This is such great news! The moratorium is such a wise decision. We thank Boulder County for listening."

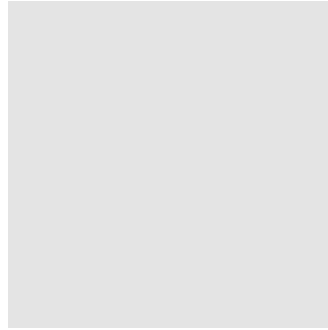
When asked what the homeowners would like to see as a result of reevaluating the regulations, Keen listed several items: updating the alley setback requirements because it would preserve the privacy of adjacent 3rd Avenue residents, accessing parking via 2nd Avenue versus the alley for safety and privacy reasons, hoping for mixed-use developments with a higher percentage of commercial to residential because it would be more appropriate for that section of Niwot, and establishing guidelines that will result in a "cohesive" style of architecture.

The moratorium does not apply to applications already in the review process at the county, nor to minor modifications of existing permits. The county's six-month timeline for amending the Code allows two months for "prerequisite studies, community outreach, and internal staff meetings," including a community meeting within 30 days of the moratorium start, and a public hearing within 45 days.

Land Use staff noted the need for another two months to draft the amendments and receive guidance from the public and interested third parties, and then one month each for public hearings before the Boulder County Planning Commission and county commissioners. Provided the process stays on schedule, developers can resume submitting development applications in the NRCD after March 20, 2019, according to the Land Use staff.

"The sooner we can focus on this, get it done, and get those parameters set, then the folks that are developing plans will have that information to base their designs off of," Grimm said in her presentation before the board. "Our concern is that if people keep moving forward in such a fast pace, we'll lose the opportunity to influence the design on a few properties that could come in sooner than the end of six months."

Ultimately, Skaggs agrees that the Code is in need of revisions, especially since Niwot has limited commercial space and could be vulnerable to “a hungry developer from Elsewhere City.” At the same time, she is apprehensive about making an already prolonged county special review process even more protracted. In the end, she hopes the potentially contentious issue can be resolved if all interested parties keep the needs of the entire Niwot community firmly in mind.



Another recent development in the NRCD at the corner of Second Ave & Murraray St.
Photo by Vicky Dorvee

“In the end, this is about more than property rights,” she wrote. “It touches our joint vision and hope for holding onto a thriving, warm community, even in the midst of a bitter national landscape. Tall order, but possible with sensitive leadership and some old-fashioned neighborliness.”