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DEVELOPING

FEATURED

Developers wary of “onerous” new rules

By Jocelyn Rowley Editorial@LHVC.com Jan 31, 2019 Updated Jan 31, 2019



About 50 people attended a community meeting about proposed revisions to the Land Use code in Niwot High's cafeteria on Jan. 24.

Photo by Jocelyn Rowley

Boulder County hosts discussion of proposed NRDC regulations

Business owners and developers with properties in the Niwot Rural Community District (NRCD) are unhappy with proposed updates to Boulder County's Land Use Code and said so to Director Dale Case and his staff at a community meeting on Jan. 24.

"I just don't understand why all of these restrictions are happening," Niwot Inn owner Cornelia Sawle said during the 'Group Q & A' portion of the meeting. "These commercial people are trying to do their best with the commercial properties. It's really expensive, as has been pointed out, and we should be jumping for joy that people want to invest their money to fix up these buildings."

Sawle joined a few dozen interested locals in the Niwot High school cafeteria to hear more from Case and staff planners about coming revisions to Article 4-116 of the code, which will apply to the three-block span of Second Avenue that comprises the downtown Niwot commercial zone. Last fall, public concern over growth in this zone prompted the county commissioners to enact a six-month moratorium on new development, to give planners time to review and update applicable land use regulations.

Case stressed at the beginning of his discussion that "this is not a final draft," and then detailed the guiding principles he and his staff had relied on during the revision process, such as preserving rural character and recognizing the importance of a "transition zone" between the commercial and residential properties.

He also said they've discarded parking requirements as a factor in limiting the scale of development in favor of specific standards. "Using parking as a proxy for square footage or setbacks or bulk is not a perfect match. So what we're trying to do is come up with some parameters in this draft language that regulates directly the concerns we've heard."

In all, the county proposed revisions to seven structure requirements, and the county reviewed the historic and non-historic portions of the NR

Sawle's property at 342 Second Avenue is located on the north side of Second Avenue east from Franklin Street. This is to distinguish it from "historic" Block 1 and Franklin Street to the east, and subject to



The direct regulations for the non-historic district drew the most outcry of the night. Among the most contentious are new provisions for Lot Coverage and Floor Area Ratio (FAR), which many property owners saw as "too onerous."

Lot coverage refers to the percentage of total parcel area covered by structures, while FAR is the proportion of a building's above-grade floor area to the total lot area. For example, a FAR of 1.0 means that a 10,000 square foot lot can house a combination of structures with up to 10,000 total square feet of floor space. Currently, there is no limit on either anywhere in the NRDC, but the county is proposing a lot coverage limit of .50 and a FAR of .55 for Blocks 5 & 6.

"The proposed rules make my inn 33 percent too large for my property," Sawle said. The Niwot Inn occupies more than 40 percent of its lot and has a FAR above .8. "I can't add a thing. I couldn't add a carport; I couldn't add a hot tub."

Bob Von Eschen, who currently has pending plans for two mixed-use developments at the corner of Second Avenue and Niwot Road, said such rules may actually invoke the opposite of what residents and county planners intend.

"I chose to take the parking area and create a garage," he said. "The reason for that is one, you hide the car—you can make a garage look like a carriage house or something—and it adds to the livability of the people who are living there. The FAR will take that away....Now you'll have parking lots with lots of cars, and I don't think that's an attractive thing."

The county is also proposing new setback and height requirements in all blocks of the NRCD to limit multi-story construction within 25 feet of the rear of the property. Case said they arrived at this figure after observing conditions such as shading and looming during numerous personal site visits to the "transition zone." However, at least two developers noted that there hadn't been a corresponding easing of front yard setbacks, despite numerous comments at December's public meeting suggesting this tradeoff would be acceptable.

A number of the proposed updates passed without much remark, including new mixed-use rules, which allow up to three dwelling units for parcels under 10,000 square feet and up to six for those over 15,000. Nor did anyone speak for or against proposed process rules which formalize the composition and conduct of the Niwot Design Review Committee (NDRC) and require developers to hold a community meeting prior to starting the county review process.

Surprisingly, new parking requirements were an area where architect Anne Postle, owner of Osmosis Art & Architecture as well as other commercial properties in the NRCD, felt there had been compromise from the county.

"I think the Parking Reduction is good," she conceded in response to a question about areas of agreement.

Conceding that rural communities often have different transportation considerations than their more urban counterparts, Case said the new parking rules are meant to reflect "county values" while recognizing the differing habits and patterns of Niwot and other Boulder County residents.

The new requirements add language about spaces per dwelling unit and removed the requirement that off-lot parking has to be within the NRCD. This requirement opens up the potential for businesses to secure required parking spots at the potential future public parking area in the public land west of Murray Street abutting the railroad tracks. The county also introduced the aforementioned Parking Reduction Plan of up to 40 percent for businesses willing to encourage the use of multi-modal transportation, such as bus passes and bike racks.

If there was one point of agreement between commercial property owners and their neighbors on 3rd Avenue, it was disappointment over a lack of resolution concerning the alley. As explained by Case and county transportation engineer Mike Thomas, improvements to the alley have to be routed through other processes and departments, including finance, and will certainly be delayed beyond the March 20 moratorium end date. This uncertainty did not sit well with many in attendance.

"You're asking us to make decisions with incomplete information," Jose Euvaldo Valdez said.

Case responded, "We're trying to get there so things run in tandem as best as possible. That financing piece, how the alley gets done, how public improvements happen, are things that we have to solve to move forward."

Ultimately, many property owners felt frustrated by the county's handling of the revision process to date, as expressed by Brian Bair, owner of Mass Equities (263 Second Avenue).

"Most of the commercial property owners and business owners are here tonight and I don't think one of them supports this plan, and that's terrible" he said. "That has to be factored in. That has to be considered, and it doesn't seem like it is."

Depending on the next steps in the process, Postle said a contingent of developers are even considering a lawsuit against the county if these regulations are adopted.

Case and Land Use planners are slated to meet with the NDRC and Historic Preservation Advisory Board (HPAB) during the last week of January. They will then take the feedback they received at these meetings and during the open comment period and incorporate it into a second draft to be presented at a public hearing before the planning commission on Feb. 20.

The PC will then make a recommendation for the county commissioners to consider at a public hearing on March 12. At both hearings, guests will be invited to speak on the issue for up to three minutes.

For more information on this code change process and the moratorium on planning processes for properties within the NRCD can be found at www.bit.ly/dc-18-0004. Or contact Jose Ruano at jruano@bouldercounty.org or 303-441-3922.

More Information

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