

RESOLUTION 2018-112

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON PROCESSING APPLICATIONS FOR DEVELOPMENT IN THE NIWOT RURAL COMMUNITY DISTRICT PENDING CONSIDERATION OF LAND USE CODE AMENDMENTS

Recitals

A. After meeting with community members and staff, the Land Use Director has determined that the existing regulations concerning the Niwot Rural Community District (“NRCD”) in the Boulder County Land Use Code (the “Code”) may not adequately ensure that proposed new development within the NRCD will be consistent with the needs and desires of the Niwot community.

B. The Board of County Commissioners adopted the original NRCD regulations in Article 4-116 of the Code in the early 1990s, pursuant to the process for establishing a Rural Community District (“RCD”) under Article 4-115, to address the unique characteristics and future development of the Niwot rural community. The regulations have undergone several, mostly minor, amendments, with the last significant update to the regulations occurring nine years ago. Subsequent changes in development patterns, community needs, and population growth in recent years has resulted in the Niwot community raising significant concerns over the impacts of continuing development activities within the NRCD under the existing regulations, making potential amendments ripe for consideration.

C. Staff and community stakeholders have identified several areas in need of clarification in the regulation language, including provisions regarding mixed-use development and a need to better understand and clarify the intensity of development appropriate within the NRCD. While the existing NRCD design guidelines work reasonably well in some areas of the district, the potential inconsistent application exists in other areas. Neighbors have also raised concerns with 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.

D. The Local Government Land Use Control Enabling Act, C.R.S. §§ 29-20-101 et seq., provides the County with the broad authority to plan for and regulate the use of land to best protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County.

E. Boulder County Land Use staff have begun to analyze whether the existing NRCD regulations, and more generally the RCD regulations, are sufficient to protect and promote the public health, safety, and welfare, by appropriately balancing changes in development and growth with the present and future needs of the Niwot community.

F. Staff anticipates the time needed to analyze necessary amendments to the regulations, as well as develop a plan to propose and adopt new regulations, is approximately six

months in total. This timeframe assumes approximately two months for prerequisite studies, community outreach, and internal staff meetings; two months for drafting, referral to interested third parties, and public review of those drafts; one month to notice and conduct Planning Commission hearings; and one month for BOCC hearings.

G. In light of the foregoing, the Board determines that circumstances warrant the immediate enactment of a temporary moratorium on processing applications for proposed development in the NRCD during the County's planning and land use regulation amendment process to protect and promote the public health, safety, and welfare, and to avoid development which may contravene the results and purpose of this study and process.

H. The Board further determines that it will schedule and hold a public hearing on this temporary moratorium and related matters as soon as practicable after this Resolution's adoption, for the purposes of receiving public comment on the moratorium and considering whether to terminate, extend, or otherwise amend the moratorium.

Therefore, the Board resolves:

1. A temporary moratorium on processing applications for proposed development in the NRCD is reasonable and necessary to protect the public health, safety, and welfare of the County. The new moratorium begins immediately on the date of this Resolution and ends at the close of business on March 20, 2019. The purpose of the moratorium is to allow time to formulate and publicly review necessary amendments to current County land use regulations governing development in the NRCD. The County Land Use Department is directed not to accept, process, or approve any applications under Article 4-116 of the Land Use Code after the effective date of this Resolution.

2. Staff shall set and notice a public hearing to occur no later than 45 days from the date of this Resolution for the purpose of deciding whether the new moratorium imposed by this Resolution should be terminated or otherwise amended.

3. Staff is directed to continue analyzing whether the existing County regulations pertaining to the NRCD, and more generally the RCD regulations, are sufficient to protect the public health, safety, and welfare, and whether amended regulations will be necessary to adequately mitigate legitimate land use impacts of development in rural community districts and better address the needs and desires of the Niwot community. Staff is directed to move expeditiously, such that the Board can end the temporary moratorium sooner if appropriate regulations are in place. Any change in the duration or other terms of the temporary moratorium shall occur at a duly noticed public hearing of the Board.

4. The Board reaffirms that any development conducted without all necessary County approvals may be in violation of the Boulder County Land Use Code or other applicable County regulations.

5. This temporary moratorium does not apply to the following:

a. Any complete application for development currently being processed by the Land Use Department, which may continue to be processed and reviewed as provided in the Land Use Code.

b. Any application for development already approved by the Land Use Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.

c. Development which possesses either a statutory or common law vested right.

d. Minor modifications to existing permits.

6. If a property owner believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 of this Resolution, the owner must submit a request for exemption in writing to the Land Use Director. Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Land Use Director.

A motion to approve the foregoing Resolution imposing a temporary moratorium was made at the duly noticed public business meeting held on September 20, 2018 by Commissioner Jones, seconded by Commissioner Domenico, and passed by a 2-0 vote of the Board.

ADOPTED on this 20th day of September, 2018, effective immediately.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Cindy Domenico

Cindy Domenico, Chair

Elise Jones

Elise Jones, Vice Chair

(Excused)

Deb Gardner, Commissioner



ATTEST:

Andrea S. Jacey

Clerk to the Board