

RESOLUTION 2018-134

A RESOLUTION AFFIRMING AND AMENDING THE TEMPORARY MORATORIUM ON PROCESSING APPLICATIONS FOR DEVELOPMENT IN THE NIWOT RURAL COMMUNITY DISTRICT FIRST ENACTED BY RESOLUTION 2018-112

Recitals

A. In Resolution 2018-112, adopted and effective on September 20, 2018, the Board of County Commissioners of Boulder County (the “Board”) authorized Land Use staff to review and consider amendments to regulations concerning the Niwot Rural Community District (“NRCD”) in the Boulder County Land Use Code (the “Code”). The Board approved a temporary moratorium for a period of six months, until March 20, 2019, and directed the Land Use Department during this period not to accept, process, or approve any applications under Article 4-116 of the Code to allow staff time to work with the community to formulate and publicly review necessary amendments to the regulations.

B. The Board specified in Resolution 2018-112 the reasons why it undertook the immediate action to impose the temporary moratorium. The reasons include, without limitation, that the NRCD regulations were first adopted in the early 1990s and last updated nine years ago, and that changes in development patterns, community needs, and population growth have resulted in significant concerns over impacts of continuing development activities within the NRCD under the existing regulations. County staff and community members have identified the regulations as lacking sufficient clarity and design guidance, and given the small scale of the Niwot community, a few development projects could have a significant impact on the unique community character within the district.

C. As provided in Resolution 2018-112, the Board scheduled a follow-up public hearing on the temporary moratorium, duly noticed and held on October 30, 2018 (the “Public Hearing”), so that the Board could receive public comment on the appropriateness of the temporary moratorium, and consider whether to terminate, extend, or otherwise amend the moratorium.

D. Between the time the Board adopted the temporary moratorium on September 20 and the Public Hearing on October 30, County staff proceeded with the study and analysis initially directed by the Board under the moratorium, and worked diligently to collect information and gather community feedback to determine whether to recommend to the Board that the moratorium be maintained, terminated, or amended, and to determine the scope for the associated updates to the NRCD regulations.

E. County staff’s community outreach activities included meeting with representatives of several Niwot businesses, attending a meeting, along with the Commissioners, of the Niwot Local Improvement District, conducting a community meeting and open house “Q&A” session, posting informational material and an electronic survey tool to gather feedback on the moratorium and code update process, and responding to numerous phone calls, email comments and questions from the public.

F. In addition to staff's activities, members of the community have held several meetings to discuss their preferences and to organize their responses to the moratorium. These have included meetings of the Niwot Business Association, the Niwot Community Association, the Local Improvement District, and other members of the community.

G. In advance of the Public Hearing, County staff prepared the memorandum and written recommendation to the Board by Land Use Department Planning Staff dated October 30, 2018 (the "Staff Recommendation"), summarizing staff's research and outreach activities during the initial portion of the moratorium and providing an overview of the NRCD regulations, the limitations of the current land use processes for the NRCD, the rationale for keeping in place and amending the moratorium, a summary of community input gathered by staff as it relates to the moratorium, and a proposed scope and schedule for Land Use Code updates.

H. As set forth in the Staff Recommendation, County staff recommended the Board maintain the six-month moratorium for the NRCD and amend the moratorium to exclude the Niwot Historic District. As explained in the Staff Recommendation, the existing development review process and design guidelines for the Historic District provide sufficient guidance for development in that area, and it is the areas of the NRCD outside the Historic District that are at greatest risk of seeing detrimental impacts on community character in the absence of updates to the NRCD regulations. Areas outside the Historic District are also the focus of the greatest amount of potential near-term development activity that staff is aware of and are in greatest need of additional development guidance in the Code.

I. County staff determined there is a need to establish clearer NRCD development guidelines regarding the topics of: density and design parameters, including bulk and massing, number and location of structures per parcel; appropriate amount of residential, retail and office uses; and interface, connections, and access to and between commercial and residential areas. Staff additionally determined the current review processes do not provide the public, developer, or County staff with enough certainty, are inefficient, require a high level of energy and ongoing engagement by members of the public, and, while they may have the potential to result in outcomes that are acceptable to the developer and those most vocal in the process, they may not reflect the broader priorities and vision of the community.

J. In light of the deficiencies of the NRCD regulations, and considering that the NRCD is a small district with unique character that the community has made great efforts to enhance and preserve, staff concluded that new projects have real potential to significantly impact the NRCD. Therefore, it is important to keep the moratorium in place during a Land Use Code update process to address the needs and desires of the community and evolving character of the district in an intentional way to avoid potential undesirable impacts that new projects could have on the NCRD for decades to come.

K. At the Public Hearing held on October 30, the Board considered the Staff Recommendation, along with a presentation by representatives of the County Land Use Department, testimony presented by many community members, including Niwot residents and business owners, and comments from other concerned members of the public.

L. Of the public testimony received, a majority of comments from Niwot residents indicated support for the moratorium and proposed Land Use Code update process, while business owners and developers generally oppose the moratorium.

M. Based on the Public Hearing and considering all information and testimony presented by County staff and the public, and upon balancing the competing viewpoints on the moratorium with larger needs of the community, the Board confirms its desire to maintain the temporary six-month moratorium on processing development applications in the NRCD, with the exclusion of the Niwot Historic District, as recommended by staff and as set forth in this Resolution, below, to allow staff time to work with the community to formulate and publicly review amendments to the NRCD regulations.

Therefore, the Board resolves:

1. The Public Hearing affirmed that the current NRCD regulations require updating in several key areas and has amply demonstrated that immediate and legitimate concerns exist over the impacts of continuing development activities within the NRCD under the existing regulations without a temporary pause in processing development proposals while County staff and the community engage in a code update process.

2. Maintaining the temporary moratorium on processing applications for development in the NRCD is therefore reasonable and necessary to protect the public health, safety, and welfare of the County. The Board determines to keep in place the six-month moratorium enacted by Resolution 2018-112, to and including March 20, 2019, as stated in Resolution 2018-112, with the amendment that the moratorium exclude applications for proposed development in the Niwot Historic District, as the existing development review process and design guidelines provide sufficient guidance for that area.

3. County staff is directed to continue the Land Use Code update process and community engagement activities as more particularly set forth in the Staff Recommendation, with the aim of bringing proposed amendments to the NRCD regulations to the Planning Commission and Board of County Commissioners for review at public hearings in February and March 2019.

4. The Board additionally urges Land Use staff to work now to develop a process to prioritize accepting and processing land use applications for portions of the NRCD impacted by the temporary moratorium at such future time as new NRCD regulations may be approved and the moratorium lifted.

5. In continuing the temporary moratorium through March 20, 2019, the Board urges staff to move expeditiously on the Land Use Code update project, so that the Board can end the temporary moratorium sooner if appropriate plans and 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.

A motion to affirm the temporary six-month moratorium to and including March 20, 2019, under the terms and purposes originally stated in Resolution 2018-112 and affirmed at the public hearing on October 30, 2018, to amend the moratorium to exclude the Niwot Historic District, and to provide the direction to County staff, as stated above, was made at the public hearing on October 30, 2018 by Commissioner Jones, seconded by Commissioner Gardner, and passed by a 3-0 vote of the Board.

ADOPTED as a final decision of the Board on this 8th day of November, 2018, *nunc pro tunc* the 30th day of October, 2018.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

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Cindy Domenico
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Cindy Domenico, Chair

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Elise Jones, Vice Chair

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DEB GARDNER
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Deb Gardner, Commissioner

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Clerk to the Board