

Town Of Nederland  
NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY  
NEDERLAND COMMUNITY CENTER 750 Hwy 72 Nederland, CO 80466  
Conference Room  
January 8, 2013 at 6:30 pm

WORKSHOP AGENDA

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A. DISCUSSION ITEMS

1. Review Status, Design, and Budget for NedPeds Project
2. Review and Input on Survey

B. OTHER BUSINESS (NEW)

C. ADJOURNMENT

ATTACHMENTS:

1. Desires / Goals: The collective comments of boards and meetings attended to date relating directly to what they would like to see incorporated into the project. Letters from Pat Everson to NDDA and Planning Commission.
2. Schematic Cost Estimates: Updated cost estimates with 50 year maintenance costs that include any replacement costs over that time.
3. New proposed schedule
4. Survey URL Flyer

The NDDA Board encourages citizen participation. Public hearings and the "unscheduled citizens" agenda item allow an opportunity to address the Board. Discussion is limited to 3 minutes and please address your comments to the Board. Thank you for your cooperation.

The NDDA Board may take action on any item included on this agenda, regardless of the heading under which such item appears. Discussion items may become action items if the Board determines that deferring final action on an item to a subsequent meeting is unnecessary or unwarranted and that taking immediate action does not compromise any third-party's rights.

The NDDA Board of Trustees meeting packets and agendas are prepared by Friday before the Wednesday meetings and are available on the NDDA website, [www.neddda.org](http://www.neddda.org). Copies of the agendas and meeting packet are available at no cost via email from [www.info@neddda.org](mailto:www.info@neddda.org). The information is reviewed and studied by the Board members, eliminating lengthy discussions to gain basic understanding. Short discussion on agenda items does not reflect lack of thought or analysis.

**AGENDA INFORMATION MEMORANDUM**  
**NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY**  
**MEETING DATE: January 8<sup>th</sup>, 2013**

INITIATED BY: Katrina Harms

INFORMATION:    ACTION:    OR    DISCUSSION: X

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AGENDA ITEM:

Review Status, Design, and Budget for NedPeds Project

SUMMARY:

1. Review NedPeds Design assumptions to date starting from the blank slate of complete ROW and layering on design considerations to date, stopping to note comments and get feedback from the board on each. The process will include using a specific section as an example, while also showing some section elevations, the entire project and scaled model with tape.
2. Review current schedule for project – Provide dates and timeline for submittals, NPP process meetings, and other meetings to allow for project completion and effective bidding
3. Review current budget and assumptions- The budget included in the packet will be broken down and any new information will be presented to demonstrate what is included and what is not.

RECOMMENDATIONS:

The board is asked to provide feedback on the current proposed design, schedule, and budget and discuss what changes it would like to see in the next iteration.

FINANCIAL CONSIDERATIONS:

The budget will be presented within the context of the available funds for the project.



## **Subject: Right of Way Considerations in the Proposed NedPeds Schematic Design for Jan 8 Workshop**

To the NDDA Board:

The attached email that I sent to the Planning Commission expresses a lot of my concerns about encroachment. This needs to be discussed at the workshop as it is severely impacts how we will move forward with the design. I have also asked Conor to see if he can come up with a ball park quote to move the telephone poles and fire hydrants back to the edge of the ROW to allow more space in the proposed route from Snyder to East.

The meandering road concept was brought forward by the Mayor at our first DAT meeting, this has been the design that the professionals have been using, but other options need to be explored before a final design for this section is put forward. There are many obstacles to consider, one of which is the sever encroachment that is occurring on this section of the street. Major ones are by property owned by the following: Nicholas Brodsky, Susanne Thomas, David Sites, Donna Sue Kirkpatrick, Tom and Kathy Stoeckly. I have spoken and written to these people and all but Tom and Kathy are willing to remove the encroachments to enhance the neighborhood and allow for more parking. Tom and Kathy do not want to disturb their fence and garden along 2nd St. Please refer to the maps to see exactly how much this impacts the roadway.

One of the problems is where does the snow go with a severely restricted right of way, and what message does this send to the rest of the community that the NDDA and the BoT is not protecting the PUBLIC ROW? I am concerned with this message and it's negative overtones. Alisha at our meeting mentioned a "licensing agreement" with these people, which is being tried with Ron Mitchell on Boulder St. He was asked to sign an indemnity waiver if their was an accident on this encroachment and caused by the structures he has built on the ROW. I do not know the status of this agreement. But how many people are in a position to deal with their insurance companies and paying the additional premium to protect the Town at the required higher limits of liability. The Town should not have to take on this added risk and we should not ask them to do that.

One of the reasons to keep the fences and plantings in the ROW is that the Town would not have to plant them or maintain them because those property owners would. I ask what guarantees are their in the deeds of these properties that that would happen, and what does that do to the titles of these properties to sell them? What burden is put on the Town at a future time to remove these obstructions on PUBLIC PROPERTY. As citizens, we no longer get to use that property because it is behind a fence and looks like to belongs to a private property.

We on the West end of 2nd near Snyder are suffering with a reduced right of way for several reasons. First the road is only 37.5 ft wide at this point on several of the maps that I have seen and it perceived to be reduced by the new building which legally has built to the property line. Please keep in mind that the zoning for this area is CBD and that others in the future on David Sites property and

Donna Sue's property can also build out to the property line. This 0 set back does not apply to the eastern end of the street which has a 25 ft front setback.

We as a Board need to discuss if we desire to endorse encroachment on public ROW and thereby set a precedent for the future of other projects in Nederland.

One concern of the SAB Board was how many parking places are we eliminating by using the meandering road concept. It was the feeling of that board that the road should be maximized for parking because it is public property. They believe that it is a better use of public ROW for parking and to keep private land for other types of development. They have asked our designers to present a plan that would maximize the parking on 2nd so that we as a board would know exactly the cost of a meandering street concept. At the present time, we do not know exactly what parking we are giving up.

I would like to point out that this present plan eliminates 2 parking places in from of DR FIX IT that are used by Mt Rose Hair Care employees and customers. We already lost the parking to our west with the loading area of the new building and now we are losing more parking to our east by using a meandering concept in this area of the road. When all of us lose parking it affects every resident and business on the whole street. Our customers, etc will now park in other spaces on the other side of the road causing yet again more traffic problems.

I am sure that Brian and Conor will bring out many other issues that need to be considered by the NDDA board, but this one seemed to be the most talked about at our board meeting.

I will try to be at the meeting via teleconference if all goes well.

Wishing you all a Happy, Prosperous and Healthy New Year.

Pat

Begin forwarded message:

**From:** Patricia Everson <[patricia.everson@gmail.com](mailto:patricia.everson@gmail.com)>

**Date:** November 27, 2012 12:31:47 PM MST

**To:** [planningcommission@nederlandco.org](mailto:planningcommission@nederlandco.org)

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**Subject: Right of Way Considerations in the Proposed NedPeds Schematic Design**

To the Planning Commission members:

In reviewing the 30% Schematic Design for the Pedestrian Enhancement and Storm Water Management Project currently being undertaken by the Nederland Downtown Development Authority (NDDA) under the direction of the Town Board of Trustees, it has come to my attention that the full width of the Right of Way of 2nd Street East of Snyder is not being reclaimed for use of the citizens of this Town, County, State and Country.

This right of way was granted with the Platting of the subdivisions that comprise the lots on 2nd St. It was intended for use of the landowners and other who might have occasion to use it for various purposes. The Colorado State Statues going back to 1800s gave the government the power to force developers to give land for access purposes. This land is then maintained by the municipality for the use of the public. It becomes public land.

I draw your attention to the fact that along 2nd St there are many encroachments that the Town of Nederland has allowed to stand for some years. Although this State recognizes adverse possession, it still does not allow private land owners adjacent to Rights of Way to use that property for their own quiet enjoyment.

Please refer to excerpts from the following document pertaining to Rights of Way, their creation under State Statute and their maintenance by municipalities. This except is from a paper written by H.Keith Corey, a Surveyor, PLS 13466 [970-244-1876](tel:970-244-1876) P O Box 20,000 Grand Junction, Co 81502, April 15, 2009

I have highlighted some of the sections that are pertinent to this discussion of the use of the ROW. Many on 2nd Street want to reclaim the full width of the street. This street ranges in width between 37.5 Ft and 40 ft. The State Statutes now require a 60 ft right of way for streets. Since the street is already narrow and the Town wishes to further reduce the width of the traveled portion by the addition within the right of way of an 8 ft multi-modal pathway, it would seem logical that ALL encroachments, outside of those allowed by law (utility, etc) be removed at this time.

I would therefore ask that the you recommend to the Bot, that the Town ask the designers under the NPP Process to include reclaiming the right of way along the entire length of the street from Snyder to East Street on both sides of the street. I

have spoken with most of the people who have significant encroachments and all but one is agreeable to removing their gardens and fences.

.. Keith Corey, PLS 13466 [970-244-1876](tel:970-244-1876) P.O. Box 20,000 Grand Junction, Co.  
81502-5013 April 15, 2009

## RIGHTS OF WAY

Other facts about road right-of-way:

The Colorado Law [Title 43, Article 1-3, C.R.S. 1973] does not contain a specific definition identifying the physical characteristics (width; grade; etc.) of a “highway” or 17

“public highway”. Although not applicable to the Colorado Highway Law, Section 42-1-

102(43), C.R.S. 1973, defines “highway” as follows:

“...the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel or the entire width of every way declared to be a public highway by any law

of this state.”

The boundaries of a “highway” include all land, structures or fixtures lying within the

exterior boundaries of the right-of-way, be it by deed, dedication, grant, prescription, or

otherwise. Thus, I-70 is a “highway” but so is Main Street in any city or town in Colorado, and the road from Eagle, past Sylvan Lake, to Ruedi Reservoir.

The traveled surfaces of roads are always less than the right-of-way width. The Colorado

courts have repeatedly held that the unused portion of the right-of-way is not abandoned

by non-use, but is, held by the commissioners for future use when and if needed. Board

of County Commissioners of Mesa County v. Wilcox 35 Colo. App. 215, 219, 533 P.2d.

50, 52 (1975) states:

“Where a right-of-way of specified width has been dedicated to the public use pursuant to legislative authority, it is not required that the entire width be at all times put to public use in order to preserve the unused portion from being lost from the dedication. So long as some portion of the dedicated right-of-way has been used and so long as there is no affirmative evidence that the county commissioners intended to abandon the unused portion, there cannot have been

abandonment of a portion of the right-of-way simply because the public need has

not yet required the use of the full sixty feet.”

Once a road has been declared to be “Public”, all uses that are permissible to the

public  
under the laws of this state are permissible uses.

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This includes those facilities for which  
the public has right of use without discrimination. This will include quasi-public  
uses  
such as public utilities including, electricity, gas, water, sewer, and telephone or  
telegraph  
service. This can be expanded to include any agency, instrumentality, business  
industry  
or service which is used or conducted in such a manner as to affect the  
community at  
large, that is, which is not limited or restricted to any particular class of the  
community.

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You must remember, however, that a "Declared Public Road" does not include  
roads by  
Prescription or RS2477 Roads. Also a gas transmission line that passes through  
a county  
but does not serve the people of the county is not a utility and must acquire its  
own right-of-way.

The board of county commissioners of each county in the state of Colorado is  
authorized  
to lease a right-of-way over any lands in the state of Colorado held for public  
purposes  
which are not in actual use for the purpose to which they are dedicated, for such  
period of

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Lovvorn v. Salisbury, 701 P.2d 142 (Colo. App. 1985)

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Black's Law Dictionary, sixth edition (Public Use) 18  
time and under such terms and conditions as it deems advisable, and to  
construct and  
maintain public roads and highways thereon.

57

The County Commissioners have the sole right to authorize and control the use  
of a  
highway, including the borrow pit, whether the user be an abutting owner or  
otherwise.

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When a parcel of land is subdivided and a private road is constructed the County  
cannot  
regulate the construction of the private road where the parcels are deemed to be



“farm  
and ranch” land, but if it is not “farm and ranch” land the county can regulate.  
59

The adjoining property owners, in Colorado, have special property rights in public roads providing access to their property, over and above the rights of the rest of the public. If a road has been established by law, the transfer of all or any part of the property upon which such road is constructed to any party, including, but not limited to, any government agency, shall not act to vacate such road. No such transfer shall act to diminish the rights of any person in such road.

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If the local county is the only entity that has rights in roads, the phrase “any person” would not be necessary. When a public road provides the only access to a parcel of land, the right to use that access is appurtenant to the property itself, and hence, is a property right. That is why you see the State Department of Transportation acquiring the access rights when they acquired the Interstate 70 right-of-way. The right to use a public road to access abutting land is in the nature of an easement. In an easement, the owner of both the dominant and the servient estates own interests in the same piece of real property.

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While the local government may have some degree of ownership and control over public roads, it is not exclusive, but rather, is shared with abutting property owners.

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The state highway department as well as the local government has the right to regulate where and how these access points are constructed on roads under their separate jurisdictions for the safety of the motoring public.

Thank you

Pat Everson - 114 E 2nd St.

**NedPeds**  
**Schematic Level Comparative Cost Estimate**  
**Jan. 3, 2013**

Base Project - 2nd St.		Unit Price								Total		Annual Maintenance Cost (per Square Foot)							
		Crusher Fines	Porous Conc.	Porous Pavers	Concrete	Gravel	Porous Asphalt	Hybrid*	Asphalt	Low	High	Crusher Fines	Porous Conc.	Porous Pavers	Concrete	Gravel	Porous Asphalt	Asphalt	
<u>PnR - Jefferson</u>																			
Pathway	4,210 Sq. Ft.	\$ 2.50	\$ 7.00	\$ 5.00	\$ 6.00					\$ 10,525.00	\$ 29,470.00								
Parking	1,140 Sq. Ft.				\$ 6.00	\$ 5.00	\$ 8.10	\$ 3.00		\$ 3,420.00	\$ 9,234.00								
24" Pipe	450 Lin. Ft.								\$ 50.00	\$ 22,500.00	\$ 22,500.00								
Inlets	2 Each								\$ 3,500.00	\$ 7,000.00	\$ 7,000.00								
<b>Subtotal</b>										<b>\$ 43,445.00</b>	<b>\$ 68,204.00</b>								
<u>Jefferson - Bridge</u>																			
Pathway	3,000 Sq. Ft.	\$ 2.50	\$ 7.00	\$ 5.00	\$ 6.00					\$ 7,500.00	\$ 21,000.00								
Parking	800 Sq. Ft.				\$ 6.00	\$ 5.00	\$ 8.10	\$ 3.00		\$ 2,400.00	\$ 6,480.00								
24" Pipe	200 Lin. Ft.								\$ 50.00	\$ 10,000.00	\$ 10,000.00								
Inlets	2 Each								\$ 3,500.00	\$ 7,000.00	\$ 7,000.00								
<b>Subtotal</b>										<b>\$ 26,900.00</b>	<b>\$ 44,480.00</b>								
<u>Roundabout Improvements</u>																			
Curb & Gutter	371 Lin. Ft.								\$ 17.00	\$ 6,307.00	\$ 6,307.00								
Median Cover Material	603 Sq. Ft.								\$ 7.00	\$ 4,221.00	\$ 4,221.00								
New Landscaping	680 Sq. Ft.								\$ 5.00	\$ 3,400.00	\$ 3,400.00								
<b>Subtotal</b>										<b>\$ 13,928.00</b>	<b>\$ 13,928.00</b>								
<u>Bridge - Snyder</u>																			
Pathway	5,310 Sq. Ft.	\$ 2.50	\$ 7.00	\$ 5.00	\$ 6.00					\$ 13,275.00	\$ 37,170.00								
Parking	Sq. Ft.									\$ -	\$ -								
24" Pipe	350 Lin. Ft.								\$ 50.00	\$ 17,500.00	\$ 17,500.00								
Inlets	2 Each								\$ 3,500.00	\$ 7,000.00	\$ 7,000.00								
<b>Subtotal</b>										<b>\$ 37,775.00</b>	<b>\$ 61,670.00</b>								
<u>Snyder - East</u>																			
Roadway	11,830 Sq. Ft.						\$ 8.10	\$ 4.50	\$ 3.00	\$ 35,490.00	\$ 95,823.00								
Pathway	6,735 Sq. Ft.	\$ 2.50	\$ 7.00	\$ 5.00	\$ 6.00					\$ 16,837.50	\$ 47,145.00								
Parking	2,156 Sq. Ft.					\$ 5.00	\$ 8.10	\$ 3.00		\$ 6,468.00	\$ 17,463.60								
N. Beaver Cr. Culvert (2-6x3)	140 Lin. Ft.								\$ 500.00	\$ 70,000.00	\$ 70,000.00								
Headwall & Wingwalls	1 Lump Sum									\$ 1,500.00	\$ 1,500.00								
24" Pipe	650 Lin. Ft.								\$ 50.00	\$ 32,500.00	\$ 32,500.00								
Inlets	6 Each								\$ 3,500.00	\$ 21,000.00	\$ 21,000.00								
<b>Subtotal</b>										<b>\$ 183,795.50</b>	<b>\$ 285,431.60</b>								
<u>East St. (2nd - SH119)</u>																			
Roadway	1,100 Sq. Ft.						\$ 8.10	\$ 3.00		\$ 3,300.00	\$ 8,910.00								
Pathway	8,150 Sq. Ft.	\$ 2.50	\$ 8.00		\$ 6.00					\$ 20,375.00	\$ 65,200.00								
Parking	Sq. Ft.																		
N. Beaver Cr. Culvert (7x4)	35 Lin. Ft.								\$ 650.00	\$ 22,750.00	\$ 22,750.00								
Headwall & Wingwalls	1 Lump Sum									\$ 2,000.00	\$ 2,000.00								
Retaining Wall	450 Sq. Ft.								\$ 45.00	\$ 20,250.00	\$ 20,250.00								
Bus Stop Improvements	1 Lump Sum									\$ 20,000.00	\$ 20,000.00								
24" Pipe	Lin. Ft.																		
Inlets	Each																		
<b>Subtotal</b>										<b>\$ 88,675.00</b>	<b>\$ 139,110.00</b>	\$ 0.40	\$ 0.30	\$ 0.25	\$ 0.10	\$ 0.40	\$ 0.35	\$ 0.15	
<b>Contingency (30%)</b>										* (30% Crusher Fines/70% Asphalt)		<b>\$ 118,355.55</b>	<b>\$ 183,847.08</b>						
<b>Base Project Total</b>												<b>\$ 512,874.05</b>	<b>\$ 796,670.68</b>	(Does not include Design Engineering or Construction Management Costs)					

**Note:** Unit Price & Maintenance Costs are for comparison purposes only.  
A detailed Cost Estimate will be prepared with the CDOT FIR Submittal.

Nederland Pedestrian Enhancement Design (NedPed) and  
 Nederland Pedestrian Transportation and Storm Water Management Improvement Project

Proposed Planning Schedule

Oct. 26, 2012

Rev. Jan. 03, 2013

	<b><u>Proposed/Actual Date</u></b>	
Notice to Proceed	<b>October 2, 2012</b>	Actual
DAT Meeting No. 2	<b>October 18, 2012</b>	Actual
Biomimicry Workshop (Part 1)	<b>November 7, 2012</b>	Actual
DAT Meeting No. 3 (Presentation of Schematic Design)	<b>November 8, 2012</b>	Actual
Schematic Design Review (PROSAB)	<b>November 15, 2012</b>	Actual
Schematic Design Review (TRC)	<b>November 16, 2012</b>	Actual
Work Session for update/discussion of NedPed (BOT/NDDA)	<b>November 27, 2012</b>	Actual
Schematic Design Review (PC)	<b>November 28, 2012</b>	Actual
Schematic Design Presentation (BOT)	<b>December 4, 2012</b>	Actual
Schematic Design Presentation (NDDA)	<b>December 19, 2012</b>	Actual
Schematic Design Review (SAB)	<b>December 20, 2012</b>	Actual
Schematic Design Workshop (NDDA)	<b>January 8, 2013</b>	Proposed
Submit Schematic Plans (30%) for Review (CDOT FIR)	<b>January 22, 2013</b>	Proposed
Biomimicry Workshop (Part 2) (Tentative Date)	<b>February 7, 2013</b>	Proposed
DAT Meeting No. 4 (Presentation of 60% Design Development Documents)	<b>February 14, 2013</b>	Proposed
Design Development (60%) Review NDDA)	<b>February 20, 2013</b>	Proposed
DAT Meeting No. 5 (Presentation of 90% Construction Documents)	<b>March 7, 2013</b>	Proposed
Review of 90% Construction Documents (SAB)	<b>March 13, 2013</b>	Proposed
Review of 90% Construction Documents (TRC)	<b>March 15, 2013</b>	Proposed
Review of 90% Construction Documents (BOT)	<b>March 19, 2013</b>	Proposed
Review of 90% Construction Documents (PROSAB)	<b>March 21, 2013</b>	Proposed
Review of 90% Construction Documents (PC)	<b>March 27, 2013</b>	Proposed
Review of 90% Construction Documents (NDDA Special Meeting)	<b>March 28, 2013</b>	Proposed
Submit Construction Documents (90%) for Review (CDOT FOR)	<b>March 29, 2013</b>	Proposed
Approval of Construction Documents (NDDA Special Meeting)	<b>May 7, 2013</b>	Proposed
Presentation of Construction Documents (100%) (BOT)	<b>May 21, 2013</b>	Proposed
Construction Bid Package Issued/Advertised	<b>May 22, 2013</b>	Proposed
Mandatory Pre-Bid meeting & Walk-through	<b>June 3, 2013</b>	Proposed
Construction Bids Due - 3:00 pm	<b>June 21, 2013</b>	Proposed

