

Meeting Minutes

Boulder Town Planning Commission

Work Meeting, Bruce Parker

February 7, 2008, 1:00 p.m.

Planning Commission and Town Council members present: Brian Dick, BJ Orozco, Gladys LeFevre, Bill Muse, Randy Ripplinger, Wendell Roundy, Dennis Bertucci, Judi Davis, and Peg Smith. Public included Mark Nelson, Don Montoya, Ashley Coombs, Donna Owen, Laura DeMay, and Mark Austin.

Discussion Highlights

Bruce Parker facilitated the discussion. These notes cover the main topics.

- Bruce is updating the town's subdivision and other official applications to improve user friendliness and for better administration efficiency. The applications will be available online. He suggested discussing the fee structure and whether the town needs to recoup its administration costs. He said that fees could be broken into two parts --- an application fee and a review fee --- one of which could be returned if the application is denied or the reviewers need it reworked.
- The subdivision and zoning ordinance drafts that Judi made available show highlighted text that are the changes required for state law compliance. He said Boulder's ordinances should be "smaller and simpler" where possible, and our ordinances do not require all the provisions that may be required by larger towns.
- The chapter 10 section on clustering that he included in the draft is for discussion only. A developer of property that is already in a designated "clustering OK" zone wouldn't have to appear before Planning Commission (to get clustering approval) other than to get approval of the subdivision itself. However, some communities think is too liberal and want to ensure that even in a greenbelt/multiple use (GMU) zone that a clustered development needs to be specifically approved. This isn't exactly spot-zoning, if the uses are in complete accordance with the General Plan. Additional approvals could add 2-3 months to the process.
- Another question that the Planning Commission needs to think about: what is the minimum parcel size required to cluster? If a person owns two acres in a medium density zone, is that enough land to make a meaningful contribution to open space? Many communities require a certain minimum to avoid creating lots of little pockets of open space. What does Boulder consider to be a meaningful open space threshold?
- Changes in allowed density will also necessitate changes to lot dimensions, setbacks, etc. up to the 50% rule. (See Bruce Chapter 10 draft.)
- Density credits: Once you start adding more lots, people will complain that they bought in a low density zone and they are now facing more homes in the area than they thought. The

benefit to the owner/developer is in development costs of infrastructure. Even without providing the density credits, this provides an incentive to cluster.

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- Gladys asked if a developer had the right to identify where buyers locate their lots/houses. Bruce thought they do have a fair amount of discretion. The town might say that it would like to protect a stream side, but this is a negotiated process. There would need to be clear language in the ordinance to say that the town wants to protect such and such things. The town could build in as an option, to allow more density credits as a negotiated point. However, this could also create more problems by setting precedents.
- “If you think you need density credits in order to motivate people to move to clustering, then go away and do it.”
- It’s important to create a good working relationship between the Planning Commission and a developer. Many things can be negotiated with the cooperative framework established.
- Gladys asked how clustered lots are recorded? Bruce said it needs to be a deed restriction filed on the plat (the open space also being a recorded lot). The town could hold the deed restriction and owners in common hold ownership. Need to make sure that you include a provision for maintaining the open space. For each home lots, need x \$ invested to help maintain---trash, weeds, etc. This could become a town responsibility. It could also be turned over to a home owners association, but this restricts other people’s access. Gladys asked about future thoughts, if down the road, Boulder reduces its 5-acres minimum to 1-acre minimum, and the owner has all this land tied up in a conservation easement. Yes, that is a consideration. Bruce added that clustering gives value to owner for areas of undevelopable land.
- A concept plan of clustering versus traditional subdividing can help make decisions.
- Many communities use open space in proximity to lots as a marketing tool.
- Brian said a big impetus in Boulder for clustering is affordable housing. Bruce said that clustering won’t get you affordable housing. If a lot cost \$40K for 5 acres, it now costs 40K for 2.5 acres because rest of the lot is tied up in the open space. Don said clustering does meet the open space requirement of general plan, but not the affordable housing concept.
- Bruce said a farmer could get economic benefit from the part of his land that is left available to ag. Clustered open space could still stay with the original owner as ag land.
- Bruce agreed with Mark Nelson that ordinance shouldn’t try to cover everything or it gets too cumbersome for any developer to want to try.
- “Clarity of purpose” is critical in the General Plan vision statement. But we may not get it completely right on the first try. We’ll only learn by making a few mistakes, and need to be ready to make changes and necessary adjustments.
- Boulder does need to address the issue of affordable housing because of state statutes.
- Affordable housing---difficult to deal with. Bruce said the simplest way is to protect and preserve the existing housing stock you have. Don’t let existing structures become noncompliant with building/housing codes.

- Bill asked how many homes to put on land? Do you count only buildable land? Bruce needed to check this fact, but he still recommended allocating some percentage of value to undevelopable land just to encourage clustering. Mike mentioned that we had previously claimed only developable land, but Bruce says there is some percentage of total land. Like 10-15%. Besides, this eliminates argument about takings.
- Bruce suggested using a couple pieces of property as a model, then testing the implementation. When BJ asked about the Martina property, Bruce said he meant just picking a hypothetical example to work out situation. Consider steep slopes, GMU zones--- what would it look like? What would be the yield with different density credits, etc.? Take a piece of paper, lay out a table, and do the hypotheticals. You don't want clustering to subvert the underlying zoning. If something is allowed in a zone (like high density housing), then you can do that within clustering.
- Bruce says the actual recording of the open space lot must be performed by the town. (Title restriction, copy on file in town.) After you have received the final subdivision plat, someone needs to make sure the plat gets recorded. **This needs to be an integral part of the official process.** The Town needs to control the final plat, or any plat, actually. Bill asked where the language comes in to guarantee the ag or maintenance plan on the open lot. Mark thought this needs to fall back on homeowners, not the town to help guarantee perpetuity.
- Some towns have a stewardship requirement in instances of land maintenance being abandoned.
- Mark Austin: water rights need to be sold with the land in order to allow open space maintenance. Mark Nelson thought this alone makes a good argument for clustering.
- The developer should be encouraged to work with the Planning Commission lot sizes within the cluster.
- Brian: do we need a Planned Unit Development (PUD) ordinance too or just clustering? Bruce said clustering will let you do that, and in fact is a PUD.
- If makeup of town changed, rules could change, but deed restriction remain in place.
- If a lot was recorded before the 5 acres minimum was put into effect, it can be built on.
- Bruce: homework for the PC ---- need recommendations on what we want to achieve, and include and have a public hearing. Get the process going. Refining our version of the clustering provision, then Bruce can respond back.
- Judi said we should have a deadline to get back. If get back by end of February or first couple days of March, then Bruce could make changes and get doc out for review and schedule public hearing in April. 10 days.
- We should add a review by the fire marshall as one of the reviewing agencies for subdivisions. The fire authorities need to be on board for emergency access and housing issues.
- On zoning: Suggest formatting the definitions within the table of uses.
- Boulder town need to establish the policy basis in its General Plan for what it wants to accomplish in ordinances later on. Don't need detail in the GP, but need a statement that

indicates purpose and intent. Then use ordinances to allow or prohibit. If questioned by a judge, then the intent has been established. Recommend doing concurrently with updating ordinances and GP. Hearing on amendments to the GP and hearings on the ordinances can happen the same night. (Separate hearings, but same night.) The GP words on clustering can be done in half a page. Don't wait until everything is perfect.

- “Appeal Authority” is a generic term that can apply to any body that has the authority to hear appeals. Depends on the things. We should go back and un-rename the Board of Adjustments.
- BoA was this: issues variances, determines nonconformity, determination of special exceptions, acts as appeal authority of the staff (such as to the Zoning Administrator. The first two items remain in place. However, “special exceptions” is now non applicable. Appeals on staff decisions now go to the Planning Commission. If the ZA makes a determination, that appeal goes to Planning Commission. The Planning Commission deals these types of issues more regularly than does the BoA and therefore is in a better situation to understand the whole deal. An appeal could go to any other body, but seemed most logical to go with Planning Commission . But the Planning Commission can decide if they want this responsibility. At the base, State law no longer has a term called “Board of Adjustment,” but we can call it anything.
- Brian reviewed work items on Bruce’s scope of work. Bruce needs to finalize forms after the underlying process has been approved. About 10 illustrations need to be added.
- Fee structure---do we want fees to include costs incurred? If so, fees will go up dramatically.
- What is the best way to contact with questions? Through Judi? The Planning Commission can email directly to Bruce, but please consolidate questions and just work through one person.
- Brian: we need a leader to help guide us, we need you here more: Bruce said , “I can be here for the PC public hearing. He will provide an official response to comments himself at the hearing. He’ll also be here for when the TC hears the recommendation, and in fact, would present the recommendation himself.
- Judi asked about notification. If we know we’re going to have something ready, we can get notices out for first Planning Commission meeting in April.

Bruce consolidated the questions that the Planning Commission needs to consider regarding clustering, and left it with Peg. The meeting ended at 3 p.m.

Margaret Smith, Planning Commission Clerk

Date

Approved: _____ Date: _____