

Boulder Town
Planning Commission
Meeting Minutes
February 14, 2019

Commission quorum was present: Matt Cochran, Elizabeth Julian, Josey Muse. Colleen Thompson and Perry Tancredi were absent. Also attending: Secretary Peg Smith, Liaison Peter Benson. No other members of the public attended.

Matt chaired the meeting, calling it to order at 6:10 p.m. He asked for a motion to approve January 2018 minutes. Elizabeth so moved, Josey seconded. All approved by voice vote.

Continue Discussion on Residential Short-Term Rental Draft

Matt said the intention of the discussion was to provide edits for Curtis Oberhansly to use for the March draft, and also to incorporate some of the comments received from the January public comments period. Elizabeth said the consensus of those comments seemed to be “why are you making it so restrictive”?

Matt: If you make RSTRs only owner- operated, rather than absentee owner-operated, we might remove a lot of the restrictions people are worried about. **Good thought Matt. It is correct to state that the most dominant restriction in this ordinance is that the RSTR has to be the owner’s primary residence (owner operated). This is a restriction seldom found in any RSTR ordinances and that provision alone eliminates a lot of the issues that jurisdictions debate around this. Eliminating absentees (and multiple properties by resident owners), through this ordinance right out of the gate eliminates a large majority of RSTR’s found in most cities. Of the RSTR’s in Boulder or the draw area, how many are absentee owned. How many are owner-occupied?**

Moreover, favoring residents of the town for RSTR benefits is a “rational” restriction on property rights -- residents contribute to the economy and the health of a community much more than absentees.

Elizabeth wondered about the legality of some of the restrictions currently in the draft. She said it’s also important to look at the county’s ordinance, which Curtis may be able to do before the next meeting. **The county has no specific ordinance on this that I am aware of. Before Justin Fischer left the Planner job a year or so ago, he said that they decided to fit these into the “lodge” category of their table of Conditional Uses. So a CUP is required and proof of a sales/transient tax license, etc, but not aware of much, if anything, beyond that by way of restrictions.**

Josey said the item requiring permission from any neighbor within 300 foot line of sight is probably not legal. All agreed that item should be eliminated. **Done.** She liked requiring owner-occupied presence, saying it had been the Mayor’s understanding that RSTRs would not be ADUs but rooms within a home, and this would address that. **I’m unaware of any discussion that requires the owner’s “presence” and that is not what the draft currently requires. My understanding is that the goal is to eliminate absentee ownership of RSTR units and that the owner has to be a resident of Boulder and the RSTR has to be their “primary” residence (which is an official designation with the Assessor and entitles the property to a substantial tax break.) But the discussion was always to the effect that an owner could rent out a room or two, OR rent out their entire house, if they are willing to vacate the premises for that time period. Being able to rent out the house while they are gone on vacation, visiting family or whatever can**

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substantially defray the annual property tax and insurance costs. This could be meaningful to both young families trying to pay a mortgage and to retirees trying to make it on social security.

Elizabeth brought up 3b on page 2, regarding number of RSTRs within the three geographic areas in Boulder. She said if there need to be a reason for making that rule. Matt said one reason is so you don't end up with 12 RSRTs in one neighborhood. Josey said the limited number keeps RSTRs spread out; a lottery system makes it fairer. They decided the geographic boundaries would be "upper Boulder" from the cemetery north, Lower Boulder anything off Lower Boulder Road, and mid Boulder everything in between. Pete Benson suggested drawing the map separately so the lines could be changed without having to change the ordinance. The intent is to divide and distribute RSTRs. He said maybe counting houses in each area so all have approximately equal housing units. Matt and Josey both wanted to keep restrictions in place---**more restrictive initially and revise later** if needed. **Land use regulations are supposed to meet a current problem proportionally and then be revised if the problem increases, not the reverse. If you limit this to owner-occupied primary residences, haven't you already addressed the vast majority of the problem you're concerned about – limiting the number of RSTR's??**

Going through the draft

"whereas clause #1, remove phrase "that the growth of tourism" because it's not specified in the General Plan vision statement. **From the GP. "Boulder wants to remain economically sound by promoting appropriate commercial and cottage industry growth on a small scale."**

Does engaging in RSTR in your home qualify?

Whereas clause #4: needs a general edit for clarity of reading **Revised. I agree, and it was too generic anyway. I revised it completely to target the specific goal based upon these discussions.**

- #1-1, change to "2-29 days" Minimum occupancy 2 nights. Matt wanted to pursue the minimum 2-day stay concept. While it may take away owner's right, one-day drop ins don't fit into the quiet use of Boulder's General Plan. It allows them to be in town longer for more business. It's also more of a home stay than a one-night stand in Boulder. It will reduce the number of people in residential neighborhoods. **Is this in the public comment "too restrictive" category? Remember that the presumption in Utah is with the property owner and their right to use their property. To regulate these rights, you need to pass the rational basis test outlined in some of the cases I've referred you to. One night Airbnb income can be important to the owner and their investment, while the risk to the neighbors, one night vs more than one, is simply not apparent.**
- #2, no changes
- #3b, limitation on number allowed (see suggestions above) total being 4 in each area. No one knew how to handle the RSTRs that already exist. Discussion about existing RSTRs needing to conform. Josey said if there are already four in Lower Boulder, they have the first option of applying for a CUP and business license. Elizabeth said we don't want to take away employment opportunities from locals. All agreed, but they didn't want to create a defacto commercial zone in a residential zone. Conclusion: State intent of equal distribution and ability to adjust to maintain the balance throughout town. Reword so boundaries aren't stipulated other than "upper, middle, and lower," with map adjustable by town council. **Addressed above.**
- #4b, make sure only one transaction is allowed. Multiple rooms in a house could be rented, but only to one party. **Revised, see 5biv**
- #5, CUP: Cover those already existing within this section. Discussion on lottery: bad because people can't plan. They build infrastructure, then don't get it. A one-year term is too short to allow any real financial benefit. First come, first serve would allow those most serious to follow through and get it. Matt said we may need to go back in a few years to address this, but for now first come is preferable. Pete said if someone applies without filling all required questions on the CUP, they go to the end of the list. **Concept**

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addressed above, (side note: have to do a list, a lottery with financial gain involved is probably illegal in Utah.

- #5f, remove all. OK
- #5e, clarify requirement of Boulder business license **5ei says a Boulder Town business license, not sure what else to add**
- #5h, Outdoor firepits, etc. Follow county fire restrictions and allow town to do the inspections. Require fire extinguishers. Use “fire restrictions for the area.” **Section 6 additions**
- #5B, 2. Conclusions: no change. There was a long discussion on removing this given Mayor’s objection to ADUs being allowed for RSTRs. Elizabeth favored leaving in, and Pete agreed that was the intent. The commission agreed that their intent was that you can have a building that could be used for either, but not both at same time. People who have an ADU have the option of which way to go, and their needs may vary over time. Josey said the Town Council had passed the ADU ordinance with the intent they would help solve long-term rental. Matt said their intent on ADUs was that the use may be variable over time as the owner’s needs change. He said the public seemed to want options of how to use their ADU. Pete said being able to do a RSTR might help you finance the building of the ADU which you can then use for long-term rental. The fact that RSTRs would be limited in number takes care of the problem of removing too much rental housing. Matt said he can imagine having an RSTR, then needing to leave for three years and turning that into a long-term rental for the duration. Having options is what we heard from people.
- #6a. Be available 24/7, but not require meeting guests upon arrival. The intent is that the owner is around and will be interacting with the guests, but they may also be working when the guests arrive. **Revised**
- #6b. Change “shall meet the guests upon arrival to “share provide the following upon arrival:” **Revised**
- #6bm 1: Trespass is not allowed—strengthen language. No hiking from property other than on public roads or identified trailheads. Applies to animals too. Control your dog. **Revised**
- #6Bii: ok as is
- #6iv: owner needs to put this information about the current fire situation and any restrictions in force. **Revised**
- #6 vi and vii: dark sky and quiet time? Josey thought “all exterior lighting” mention creates a safety issue. This needs to be fixed. Pete suggested adding a requirement to check out the property when it’s not occupied and turn off lights. (How does Torrey handle this?) --- may still need to discuss this. **Great topic for discussion. The Mayor has initiated some dark sky lighting alternative discussions with Garkane and has a donation to the Town to change out some street lights. The woman who spearheaded the passage of a dark sky ordinance in Torrey, Mary Bedingfieldsmith, and for getting Torrey officially designated a dark sky town with the IDA, is willing to present to us. (I’ve spoken to her once and we have a call scheduled next week. Will report more on this at meeting.)**
- Under written instructions for guests, add emergency phone numbers to call **added to 6**
- Matt: add lighting under CUP, #5 under conditions, compliance with Boulder lighting standards.

Judi had received an anonymous letter addressed to Town Council and Planning. Peg read it (see attachment).

Update on General Plan Work Group

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Josey reported the work group met Feb 13. They went through all the work group recommendations and cross referenced them against the work they've done so far. She's highlighted the document with all review comments so far. The next work meeting will be Feb 21. We're planning to have a version out to the Planning Commission for review before the March meeting. We hope to take comments from the commission, integrate them, and best case scenario have a document to the public by April and be able to schedule public hearing.

Public comments

No public.

Discuss Upcoming business: March 14

- Residential Short-Term Rental with re-draft from Curtis
- Review General Plan updates
- Schedule public hearings for both GP and RSTR
- Discuss public comment policy (Elizabeth suggested allowing public comment at beginning of the meeting for people who don't want to sit through the whole meeting.)
- Upcoming business for March 14

Elizabeth moved to adjourn, Josey seconded. Matt adjourned the meeting at 7:25 p.m.

Peg Smith, Planning Commission Clerk

Date