

Meeting Minutes

Planning Commission, Boulder Town

July 8, 2010, 7:00 p.m.

Commissioners present included Tom Jerome, Brian Dick, BJ Orozco, and Bobbie Cleave. Also present was Commission Clerk, Peg Smith.

Brian called the meeting to order at 7:02. Brian called the public hearing to order and recognized the public: Matt Cochran, Alyssa Thompson, and Mike Nelson, later joined by Bos Bosworth.

Public Hearing: Hear Comments on Requested Change to Zoning Ordinance, Section 1017, to Allow Vault Privies (portable toilets) for Temporary RV Occupancy

No initial comments were heard from the public participants. The commissioners reported on information they had researched in the interim and comments they had received:

- Portable toilets are required by the state on construction sites because of employees
- Bobbie read Brian Palmer's comments from SW Public Health. He said they restrict the use of portable toilets broadly to public use and day use only. They are not considered appropriate over long periods of time, and are used mainly to help with an emergency situation. Misuse of portable toilets presents a potential health issue. If the portable toilet is actually maintained properly, the owner may as well spend the money to put in a regular system. He recommended against adding portable toilets as an option to section 1017.
- Tom said on construction sites where portable toilets are used, they are used for day use only, and the workers go home at night. The situation in Lower Boulder differs from that in that people live onsite overnight, and given reimbursement to workers, it could be considered an ongoing commercial site.
- Peg read Judi Davis's online comments:

...First, a little history. The question of people using an RV type vehicle as a temporary residence came up when Dale Clarkson, or Cathy Bagley on his behalf, had people who wanted to buy lots in the BKRE subdivision but weren't ready to build and wanted to spend time at their property in an RV. At the time, there was nothing in our ordinances that allowed for that.

At the time, we had complaints of property owners who were using the bushes and planting TP flowers on not only their own property but also on that of others. It became a serious problem that had to be fixed. So, the PC worked for a long time coming up with Ordinance 46D in 2005, which is now Section 1017 in the ZO. It seemed to fill the need without being too objectionable. Basically, it provided three means whereby sanitary needs could be met. There were also other stipulations that had to be met, such as respectful use of generators and application for a permit for such occupancy.

The other stipulation that seems to have been ignored in the current debate is 2.c "The RV must be occupied by the property owners, family members or guests of the owner strictly on a non-commercial basis" and also, to a lesser degree, 2.e "Only two non-owner owned RV's may be located on the real property at any one time." It goes on to state that the sole intent of the amendment is to allow property owners, their families, and guests to have the use permitted. It

was not adopted to allow a piece of property to become an RV park, and you were adamant about it not having a commercial application.

Now, the current proposal to allow for a fourth permissible means of meeting sanitary needs (porta potties) came up not from property owners who wanted to spend time on their property and couldn't meet any of the three allowed possibilities, but from the owner of a farm. Day workers who live in town didn't have any means of immediate relief for their sanitary needs other than the proverbial bush (or maybe I did hear that they had a bucket), and neighbors were complaining. The owner, if I understand it correctly, wanted to use a composting toilet and did extensive research, but found that it wasn't in her budget this year. She also had interns who were going to be coming to learn organic farming while staying on the property in RV's. There was an urgent need to provide for the sanitary needs of these people.

I guess a big question is, "Is this a commercial arrangement?" The farm provides food for her restaurant. I don't know whether the intern workers are paid or are guests coming to learn a new skill. I would assume that they would get something in return other than just knowledge, but I've learned that it's not always safe to assume anything. As to the Health Department, they do have a rule that allows for porta potties (vault privies) in certain circumstances, and apparently they gave Chanda verbal approval in this case. They were supposed to verify that in writing to the Town, but they haven't yet done so. The Town allowed the porta potty arrangement to go forward just until the PC and TC decide whether to allow them by ordinance.

Section 1017 doesn't have anything to do with providing sanitary facilities for people unless they are temporarily living in an RV on a piece of property in a non-commercial setting. Strictly speaking, I don't think that, in the spirit of what 1017 was created for, we really need a fourth option.

But, we need to allow for some kind of sanitary facilities for day workers, as is done on construction sites, for example. A porta potty is certainly better than the bushes. But I don't believe Section 1017 is the place to provide for that type of allowance. As for the interns who come in an RV and have nowhere to park them, would the owners be willing to have them park on their personal home properties as guests? If so, 1017 may apply. Or could they stay at the RV park at Boulder Exchange?

- Tom said SW public health says portable toilets are allowable for very limited periods of time. How long should the town consider this an "emergency"? Can't the owner get a loan to fund septic system or composting toilet? Maybe we should specify a period, say two months, to come into compliance.

Matt Cochran said, "The owner faces a big quandary: on one hand they've expressed intention of getting a composting toilet, but there isn't a known time frame of county acceptance." He said the state approves their use, but still, on the ground, multiple agencies have to work together and they don't seem to have a common perspective. The County has to adapt.

Tom said he wants to be helpful to business owners in town, but not establish a precedent of six months for an "emergency."

Bobbie said after hearing the SW Public Health input, she didn't think it would be appropriate to add portable toilets to Section 1017. Tom wondered if they could come under compliance if the workers weren't housed onsite. If they aren't staying overnight, the septic requirement falls somewhere in the commercial day use area, beyond the strict application of section 1017, arguably still an area that should be addressed. He thought the town was supposed to have been receiving updates on the RV occupancy, but is unaware of any.

With no further comments or discussion, Brian asked for a motion to close the public hearing. Tom moved to close the hearing, BJ seconded, and all approved.

At 7:23 Brian reopened public meeting. Tom moved to approve the June 10 minutes; Bobbie seconded the motion, and all approved. Brian noted a correction to be made to the July 1 special meeting minutes. BJ moved to approve the minutes with the correction, Bobbie seconded the motion and Brian, Bobbie, and BJ approved them; Tom was not present at that meeting.

Recommend Action on Requested Ordinance Change

Brian moved to recommend rejecting the application for changing section 1017 to add use of portable toilets as fourth sanitary option for temporary RV use. BJ seconded the motion, and the vote was unanimous.

The Commission asked Peg to write a letter to Blake Spalding informing her of this decision. Bobbie wanted a statement added for the record that the Commission appreciated Blake trying to comply with town regulations.

Discuss Conceptual Plan for Pinon Butter Subdivision (Rachel Thatcher)

Neither Rachel Thatcher nor her appointed representative was present to discuss the plan, so the Commissioners were unable to address their questions to anyone. However, all the Commissioners had been supplied with the application and preliminary plat drawings to look at.

- Mike Nelson asked about existing wells. The plat map indicates there are.
- Tom said, to his knowledge, the access road is only 30 feet wide and the requirement is 40 feet. He said the 10 items that the commission needs to consider are itemized on page 19 of the subdivision ordinance. It would be beneficial to discuss these items ahead of time.
- Access to the lots was the big topic: the access road coming off Anselm's drive is more than a 30% slope---how will it be plowed in the winter, where are driveways, how would emergency vehicles turn around? (Tom said no more than an 8% grade is allowed for fire vehicles, so that a fully loaded truck could get in and not spill water. (And the actual driveway down to building sites would be even steeper)
- What are the proposed sites as presented to a buyer?
- The plat should indicate by color coding any slope over 3:1. One map should show slope, one showing cut and fill of the road, one showing perc tests in relation to house site, driveways, septic fields.
- Perc tests are required on each lot.
- Water hookups need to be discussed. If a site is using a well, flow rate must be shown.
- Tom pointed out section 400-2, #3A referring to identification of natural features. On areas of slope exceeding 30% nothing can be disturbed by ditch, culverts, roads across, or pipe beneath.
- Tom said that sites 4 and 5 may have access from BJ Miller; they would need to form a road association to maintain the access. That would need to be stipulated.
- Brian noted the original Springhill Farm subdivision had been originally approved, but it still doesn't have the required emergency vehicle turnaround.

- Tom said if the old subdivision from Martina is still legally intact, it can exist as is, but the problem would be to get a new building permit on problem areas. The original subdivision paperwork needs to be looked at.
- Bobbie said anytime a change is made, the whole subdivision can be revisited. Tom wondered if some change in the subdivision definition had been made as a result of the sale of the entire property. Anyway, the current road in is not acceptable.
- Matt Cochran, a former surveyor in Missoula, said, thinking of topography, a professional survey is needed. With the cliff in the back of the property, how is water overflow and storm drainage handled?
- Tom said our job is to protect the buyer and the town. The buyer needs assurance they have a buildable lot.
- Peg will investigate the Springhill Farm subdivision documents.
- Tom will talk to Bill Muse, who has an option on the remaining lots from the old subdivision.
- Tom said he'd received call from Anselm Spring regarding the written promise of an acre of land in that subdivision.
- Boz asked about one clarification---if the access road is within the lots, it is an easement issue, and becomes a legal question.
- Peg will notify Van Lewis, Rachel's rep, of these questions and comments.

Next Meeting

Other business: Matt Cochran wanted to explore use of pivot lines next to residential areas. With ranches adjacent to residential areas, the 24-hour diesel noise is a major assault on residential life. Is it worthwhile to discuss some type of ordinance of 24 hour use and noise level? Can noise be curbed at a given decibel level?

Brian noted that ag uses are currently exempt from noise restrictions.

Boz said the Robison Ranch, where he works part-time, has tried to work on the noise issue. In that specific case, the acoustics off Durfey Mesa tend to point the sound at certain location, but not at others. Brian noted that a previous sound issue on that ranch had been successfully addressed.

Tom said a question on having a sound/nuisance ordinance will come up on the town survey.

BJ said part of Boulder's essence is quiet use, but it is also the agricultural heritage and lifestyle. Matt agreed, but suggested that modern technology can probably be used to muffle sound.

Bobbie asked if the issue can be delayed until feedback is received from the survey and more research can be done. Tom agreed and added that he would prefer getting more information on options and reasonable remedies to the noise before pitting one group of people against the other.

At this time, the August 12 meeting will return to work on the town survey.

Tom moved to adjourn, and BJ seconded the motion. Brian adjourned the meeting at 8:24 p.m.

Peg Smith, Planning Commission Clerk

Date

Approved: _____ Date: _____