

Meeting Minutes

Planning Commission, Boulder Town

July 10, 2012, 7:00 p.m.

6 p.m. General Plan Work Session

Not enough commissioners were available to hold the work meeting.

Regular Meeting

Commission members present: Alyssa Thompson, Donna Jean Wilson, Loch Wade, and Ray Gardner. Tom Jerome, Town liaison; and clerk Peg Smith were also present. Ray is serving as chairperson for the meeting. He called the meeting to order at 7:10 p.m. Loch moved to accept the June minutes with the edit he'd requested by email. Alyssa seconded that motion, and all approved.

Regarding old business, as a follow-up on the status of the Full Moon and Springhill subdivisions that the Planning Commission recommended approving at the June meeting, Alyssa asked why the Town Council voted against approving it. Tom said his reasoning was that although it was legal to await final paperwork, he would like to reserve those exceptions to situations where a real need has been expressed for expeditious action. Presumably, the only rush with the subdivisions was the desire expressed to complete the mylar version of the plat map. There were several outstanding issues, chief among them that Scotts and Rachel Levinson had not completed a road maintenance agreement for Springhill, so the Scotts weren't ready to sign off on their subdivision change; the check to Boulder Farmstead hadn't cleared. The Town Council members wanted to encourage the notion of application elements being completed before the final approval stage.

Loch asked if the Town Council would prefer the Planning Commission itself suspend approval until all elements are complete. Tom said the Town Council, in general, would rather not be in the position of voting on things that aren't actually completed. On a second note, Tom said he was still trying to set up checklists for completing applications. It would be simpler to determine what is done and what is not done by looking at a checklist. A subdivision checklist was started a few months ago; Peg will see if it's complete. Both the conditional use and the subdivision application procedures would benefit from a checklist. Furthermore, with so much turnover on the Commission, a checklist would be helpful for everyone.

Discuss Loch's Application

Loch recused himself for the discussion of his application for zoning ordinance change. Donna Jean summarized the phone conference with Bruce Parker that was held on July 9 with Judi, Donna Jean, and Peg:

According to Bruce, one of the potential results of this change would be to open up a lot to two residences...just move cautiously on whatever you decide to do. Donna Jean had asked about state code, one phrase of which seems to imply latitude for the town to establish its own requirements. Bruce said there are no full definitions of terms, even though the state is in the process of tightening up the whole nonconforming use section.

Alyssa asked for clarification on the Parker phone conference notes: how did he mean that this requested change might apply to old barns and outbuildings being converted to housing? Ray said more clarification is still needed to move forward. He didn't think [the initial question] would initiate discussion of all lots in Boulder being divided. "I don't think we need to go there."

Loch: (commenting from the floor) What makes a building nonconforming besides setbacks or so forth? What makes a building nonconforming is the extra residence on a too-small lot. It seems it would be hard for someone to get an old barn approved through the Planning Commission if they wanted to turn it into housing. I understand not wanting to open up a can of worms, but I don't really see that as a serious problem. The way I wrote the proposed change, I don't see how that would allow anyone to split their lot. The structure already has to be there.

Donna Jean: You can't stop anyone from selling any part of their lot. They can keep one acre and can sell the other even if it results in an unbuildable lot. Donna Jean mentioned some properties on which existing structures could be torn down and a new house built.

Alyssa: But are we against that? Opening up housing that isn't currently being used?

Tom: You can write the ordinance to limit to its effect to currently-occupied living structures and not allow increased square footage. I don't think we want to see existing housing disappear. If house becomes so decrepit, it isn't a livable house anymore, then it falls outside the description of Loch's request. But what is someone wanted to actually tear down and replace that house? As long as it's on enough acreage, why not? I encouraged Loch to proceed with this because we have a very low amount of housing stock in town. We don't want to add more houses on small lots, but we certainly want to preserve those structures that already exist.

Peg, regarding the phone conference: Bruce wanted to go beyond the actual wording of Loch's requested change to the larger issue of what the town really wants to promote. An ordinance can be crafted to reflect whatever that is.

Alyssa said to her, it's not a matter of wanting to change zoning across the board. It's dealing with structures that aren't now in good condition to be made usable as housing. How many properties would be really be affected with a change in the ordinance---maximum a dozen? The commissioners agreed they need more information on actual properties. Donna Jean asked if a time limit could be put in an ordinance to which Tom responded you can stipulate that the structure had to have been occupied within the last year. Actually, a benefit would be created if abandoned houses actually became potentially valuable property that could be renovated and turned into livable units. It would encourage structures being kept up and housing available.

Ray: what outside information do we need to move forward? Besides identifying potential other lots in community. Loch said that is probably the most important. What's the real number and what are the bigger picture implications? Loch said situations vary; for example they have a 2.77 acre lot, and "we can replace that house anytime we want. There are lots that are smaller, but they're conforming. Our primary house can be replaced."

Loch and Kelly's lot was a legal lot of record before the 5-acre ordinance went into effect in the 1990s. That same situation applies to a small handful of existing lots, including Renon's and Idonna's. Donna Jean brought up the variance remedy, which opened the question of the relationship between a variance and the nonconforming use clause of the zoning ordinance? Tom said unscrupulous people could sell off pieces of their property and return to the Planning Commission asking to replace the existing house. Or they could build a house on five acres and

sell off four acres, creating a defacto subdivision out of their original five acres. Loch asked if it's legal to sell any part of your property, is it not possible right now to do that? Donna Jean said you can't get a building permit on an illegal lot.

Tom said the town needs more information on septic density (before serious consideration of creating more living units. He had spoken with a representative from Southwest Public Health who said the state regs just it's based on how many bedrooms are in a home. Tom said he'd want to know what is recommended for septic density and what impact an ever-escalating number of septic systems would have on our water table.

Loch said if there are 21 sections in Boulder, there could be potentially 2,688 5-acre lots, generally. Boulder couldn't sustain that many lots even at a 5 acre minimum. If all private land were subdivided now into 5 acre units, how many units could Boulder actually support. Going back to my particular proposal, it would only preserve existing housing. It's not a matter of adding additional housing. It's a valid discussion, but a leap to go from preserving existing buildings to the whole question of how many housing units can Boulder sustain. This is all a valid discussion, but it doesn't exactly relate.

Ray: we've identified two areas for research: other properties that might be affected by Loch's requested change and the matter of septic density. DJ also suggested everyone reading up on the nonconforming section in ordinance and be really familiar with it.

Tom said a paramount issue related to Loch's proposal is whether Boulder wants to lose housing stock in the community. Now, the only way to replace an uninhabitable house is to hope it burns down. That doesn't seem like a rational way of doing business.

Loch said maybe some type of standard could be applied; if house doesn't meet a particular U.S. housing standard that ensures it is safe and habitable, you would be allowed to replace it. Alyssa agreed that Loch's proposal is in line with General Plan for encouraging more housing.

Ray said he would accept the assignment to talk to Judi to see if she has anything on file that would help identify other properties that would be affected. Tom's assignment is to find out about septic density.

Peg: will set out a notice about a work meeting to address this specific topic.

Discuss Ordinance Compliance and Enforcement

Loch unrecused himself and rejoined the Commissioners.

Alyssa said she asked for this item to be put on agenda because enforcement duties are already in place, but the town's options are too black and white; either a non-compliance is overlooked completely, or the person is threatened with their business license being revoked. We need some better procedures and remedies.

Tom, who is the Town Council enforcement officer, said the Planning Commission shouldn't be involved in enforcement at all... it's the Town Council's responsibility. "I'd like the Planning Commission to bring matters to the Town Council if they consider them to be noncompliant. Identify the ordinance that is being offended and specify how it's outside the limits, so we actually have a definition." The Planning Commission should not be writing its own letters to individuals out of compliance. As the enforcement officer, Tom would like to take a copy of the ordinance to the person, show them where they're out of compliance, and show them how to

move into compliance. If the person is unwilling to do that, then the Town has no option other than pursuing punitive measures. "I have no desire to go to someone and threaten and force. I want to work with them and help them comply." He said in the case of a sign issue he could take the conditional use application form, take a picture of the sign, help the owner fill out form properly, and then if they still don't want to follow through it would be up to the Town Council on how to proceed..

Ray said that procedure sounded very reasonable and approachable. Tom said the matter just needs to be on the Town Council agenda to proceed with action. He's also been lobbying to integrate the business licensing process with the signage aspect of the conditional use permit.

Loch asked if there was a way a new business license applicant could put up with a provisional sign and after business permit is awarded, put up their real sign? Alyssa suggested including a signage request within the application process itself.

Ray asked if the Commissioners were satisfied with the process described by Tom? Response: yes.

Peg said she would draft a form that would include signage for both business licenses or conditional use permits.

Discuss Upcoming Business and August 14 agenda

Items on the agenda for the next regular meeting, to be scheduled August 14 include:

- Elect a co-chair
- Discuss checklists
- Ray's and Tom's action items related to the zoning ordinance change
- Potential conditional use permit for borrow pit sign
- General Plan work meeting to precede the regular meeting. (Work meeting to start at 6 p.m.; regular meeting at 7 p.m.)

Loch moved to adjourn, Donna Jean seconded, and all approved. Ray adjourned the meeting at 8:32 p.m.

Peg Smith, Planning Commission Clerk

Date

Approved: _____ Date: _____

(Addendum to 7/10/12 Planning Commission meeting minutes)

Notes from Bruce Parker phone conference, 7/9/12 (Donna Jean and Judi attending)

Options for action:

- 1) Either kick around ideas and come up with something for Bruce to draft into ordinance language;
- 2) Recommend approval to the Town Council and then have a draft created to present to them
- 3) Do nothing or recommend not approving while continuing to do research

Bigger question is how would this change apply to other properties throughout Boulder and in other ways than the currently intended manner? Consider that every lot in Boulder created before the ordinances came into being (mid 90s?) may include unknown nonconforming uses/structures. Consider all old barns, outbuildings. Would they be able to be torn down and rebuilt as new housing? Any ordinance might have to be drafted so restrictively that it would even preclude the current applicant's usage.

Does Boulder want to consider rezoning areas for smaller lot sizes to take care of the nonconformance?

Policy questions to be discussed:

- What do we want to achieve as a town going forward? How does allowing 2 houses/lot benefit residents in general?

(Question on whether 2 septic systems can be safely housed on 2.5 acre lots.—Health concern, but unknown—see last bullet).

- Guest quarters--- these are different from separate dwellings in that they can be required to share one set of utilities and can't be offered commercially (for rental). Also residence is limited in duration.
- Do we want more people moving in?
- Question for DEQ--- Boulder Town actually should have them conduct a soils survey to determine how many more residences can be constructed that utilize a septic system before we start compromising our aquifer water quality? What affect would double-the-housing have on the septic situation?