

Meeting Minutes, Boulder Town Planning Commission

April 9, 2013

Commissioners present: Loch Wade, Alyssa Thompson, Caroline Gaudy, Donna Jean, and Cindy Wilson. Also present: Commission secretary Peg Smith, and members of the public, Mark Nelson, Josh Ellison, Hannah Ohlwiler, Anselm Spring, Mike Nelson, and Ray Nelson. Loch called the meeting to order at 7:01 p.m. Alyssa moved to approve the February and March minutes, Caroline seconded the motion, and all approved.

Discuss Changes in General Plan and Recommended Action

Loch reviewed the final changes made in the General Plan revisions at the work meeting prior to this meeting. Caroline moved to recommend the General Plan as revised to the Town Council, Alyssa seconded the motion, and all approved. The General Plan moves on to the Town Council for their public hearing and decision.

Public Hearing on Loch's Zoning Change Request

DJ moved to close the meeting and open a public hearing, Caroline seconded, and all approved. Loch recused himself from the Commission for the duration of the discussion and turned the meeting over to the co-chair, Alyssa Thompson.

Loch presented his zoning change request: He's been repairing and welding old farm machinery for a long time, he has a 3-year note on the property that needs to be refinanced this year, and he needs to get his business set up officially. He went to get business license and found he couldn't because it is a welding/blacksmith shop that would be considered a tradesman's shop and is allowable only in the commercial zone. Tradesman shops are not defined as an allowed usage in the zoning ordinance, but it makes sense because that's what it is. Therefore, to get his business license, he would also need to get his property zoned as commercial or rent space elsewhere, but there is not such space available. That's why he requested the zoning change. Now, if his rezoning is approved, the matter still goes before the town council, and they schedule another public hearing. If they approve, then he will apply for the conditional use permit as required by the Zoning Ordinance. The Planning Commission would then consider his application for CUP, hold another public hearing, and then if that were passed, he could finally apply for his business license. It is a lengthy procedure for anyone to go through but Loch said he wants to set an example, do everything by-the-book, and be fully compliant with our ordinances.

Currently his property is zoned as low-density residential.

Caroline asked if his business could be considered a home-based business, and if the noise factor extends beyond his property line. Loch said he mostly works outside, not inside, so yes, the noise factor is there. He said he also produces fumes and emissions. He is a tradesman.

Donna Jean said conditions could be established through allowable hours of operation to accommodate noise.

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Josh: Looking at the table of uses, most everything requires a CUP. What is the purpose of the zoning if it still has to go through the CUP process?

Mark N: When we first started, we zoned the whole town as it existed at that time. Loch is the first to actually request a change from original zoning to something new. Loch is well within his rights to apply for this. The burden on the town and Commission now is to judge whether that's appropriate and whether it creates problems down the road.

Donna Jean said the property is also adjacent to an existing commercial zone.

Josh: I see a slippery slope for establishing a commercial zone. Loch got lucky that he got a place adjacent to a commercial property, but I don't see why he has to be in a commercial zone to do this? Caroline said a case could be made for it being a home occupation as things are written right now.

Mark N: He also has a residence [that would be] in the commercial zone. That makes it multi-purpose. ... This throws it back on the Planning Commission to answer these concerns. If you're not comfortable, you don't need to rush to judgment. Make a list of concerns.

Ray Nelson: We have a number of concerns, first one being the noise involved, and we do hear noise. Also, there's the junk laying around in the yard. Also, the town should consider what types of businesses you want along the main highway instead of off on the side streets somewhere. I think it's inappropriate---is a residential area. The town should take a look at zoning, and keep it intact as a beautiful little town as you drive through it. [Other places} you drive down highways and see high fencing. I don't want to see big fencing, but I also don't want to see junk.... Joe Parker is also in a housing zone and he's been doing business on a CUP. The town should start a plan and do a plan and not just let people do whatever they want.

Anselm asked Loch if he had to do the welding for his livelihood. Loch said yes, if he couldn't do his business he'd have to move. Anselm said making a living should be a priority. The junk issue could be addressed in some way. The human being should be the priority.

Josh: Some people have to make a living within the confines of Boulder, and some can make living outside Boulder as home occupation, which is technically illegal. But is much more difficult to make a living within the town of Boulder. Neighbors have issues, but Loch's expertise is valuable and it would be a travesty if he had to leave town.

Loch read the definition of junk from the ZO. He said, "I do have some parts behind shop, the tractor is not dismantled or wrecked, but it doesn't run. The corn binder isn't operational, but it isn't junk. Everything else is in operational condition.

Mike Nelson: There was a guy who came to town who tried to make everyone have a toilet in their front yard with flowers in it. Everyone looks at stuff differently.

Mark N: When you talk about junk, a lot is personal opinion. The Commission needs to consider Ray's comments about junk, but should measure that against others. But I'd like to avoid the type of compromise that Anselm is talking about. It's not just about the individual. The reason for the Planning Commission and the ordinances is about community standards. The town needs to decide what the standard is going to be: size, density, aesthetics. Then ask the individuals to work within the standard so they can have their needs fulfilled, but the town still maintains its standards. It's about both. It shouldn't be a popularity contest again.

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Donna Jean: Loch can have farm equipment. That has nothing to do with changing to Commercial zone or not.

Josh: In this circumstance, there's nothing obvious about what he does that is commercial. I'd rather see the definition of what he does be changed and have it be a conditional use, rather than rezone the property to commercial. Once you open that door, it's a slippery slope. There's nothing commercial about it. It's not a big resort.

Alyssa said this is coming down to what he does as a tradesman. That could be redefined.

Caroline: I'd like to see Loch continue his business, but would like to not be forced to rezone to see that happen. There's no problem with Loch's business; we could come up with some compromise. I wouldn't be comfortable zoning that commercial. It opens that property to anything allowed under commercial zoning.

Loch: It's true that the property rezoned would be commercial, however, it doesn't mean anything could just go in and put business up. If someone wanted a nightmare scenario and wanted to have an ATV rental, they'd have to come before Commission, hold a public hearing, get input, address everything that needs to be addressed. Not any business can go there. The size of the property would probably restrict types of businesses or it would be problematic. It's not really true that anything could go in there.

Ray: I agree with Loch. Any town that starts developing would likely be along the highway frontage. Personally, I don't want to see it next to me.

Caroline: It's true that it is within the town's purview to review a CUP; however, if a property is already zoned and a business wants to throw a battery of lawyers at you, it becomes very difficult to refuse a business if the property is already zoned commercial.

Mark N: [considering highway 12 development] When we were first looking at this, we were talking about development being likely there, but we didn't want to see "strip development" along the highway all the way through town. Then we'd be like everyone else with all the strip development. Maybe the town needs to revisit zoning as a whole. We're going to be under pressure to develop the highway properties. It can't be avoided forever.

Caroline: OK, but the moment is now, and Loch needs the direction. The General Plan says the town wants to encourage service business, so we'll have to make a recommendation on this specific proposal. It doesn't meet home occupation as currently written, and if the answer is no, we need to make a recommendation that will work for Loch.

Alyssa: Look at Joe's CUP. It's workable in that realm, being added to table of uses.

Loch: If that's how the PC wants to handle it. I want to repeat, it's because I'm constrained by the ordinance itself that I'm submitting this application.

Alyssa: Are there any other reasons [for requesting the rezoning]? Loch said he didn't want to highlight the current illegal trades operations going on. He said the town is in a quandary. "I want to head off potential problems."

Loch: [Certain people] will refuse to rezone their property to accommodate tradesman operations. So I actually have a precedent to continue doing business as is.

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Josh: The more steps you put in the way, the more people will avoid the process. If [person] only has to apply for a conditional use permit, he might pull it off. But if other people had to go through what Loch's putting himself through, most other people wouldn't try.

Mark N: No one has to comply so they don't. We might as well go right back to the beginning, set a standard, and enforce the standard.

Josh: These people are filling a niche. The paper should reflect what is needed in the community. Right now we have three illegal businesses that are doing just fine.

Loch: I'm trying to meet the standard. Why bother? The town's never going to enforce it. I'm bothered because I respect the town and the rule of law enough to put myself through this byzantine process. This is a test case. I'm a pioneer here. The Planning Commission needs to consider, if I'm not allowed to have this business, you will send a message to other people, probably the wrong message the Commission should send.

Alyssa said the Table of Uses, particularly for a general/multi-use zone has all sorts of other options. It wouldn't be a problem to add a few more.

Hannah: Under the current law, rezoning would be the appropriate thing to do, but I agree with Josh that it should be a conditional use in its current zone. Part of the charm of Boulder is that people work really hard to stay here and that often requires creative living and what you can offer to the community. That means it would have to be a unique approach

Alyssa asked Peg to read Tom Jerome's letter expressing support for Loch's rezoning application.

Anselm: If Loch were a sculptor, could he build huge sculptures on his property? If he's a musician, could he make them and sell them? We need to be dynamic. Is there a difference here between an artist and a mechanic?

Loch said if a professional office is separate from a home, it has to be in a commercial zone.

Mark: The choices are accept request or to reject the application and amend home business or tradesman definitions in the ordinance. Or we should rethink and talk to a planner.

Loch: There have always have been tradesmen who supported the agricultural enterprises in town. I'm conscious that I'm taking LeFair's position in doing this. I don't care how the town accomplishes this. I've chosen to do this on the up and up. It's destructive and cynical to do things as they've been done. It seemed I was constrained by the zoning itself. Would I have to refile to change the Zoning Ordinance? I'm willing to go through the process. I would reapply in another way out of sense of civic duty. ...So that more people can be accommodated and legal, I'm more than happy in the spirit of the greater good to retract the application for a zoning change, and will approach this from a different point of view.

Caroline: I think we do have a plan, but the plan doesn't fit the current circumstance. It has to be revisited and revised. Yay to Loch for doing it.

With no further comments, Alyssa asked for a motion to close the public hearing. Donna Jean moved to close public hearing and reopen the meeting, Cindy seconded, and all approved.

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Discuss Zoning Change Request

Alyssa asked for a vote on Loch's rezoning request. Donna Jean and Cindy voted in favor of the zoning change. Alyssa and Caroline voted against the rezoning change.

Alyssa: I was in favor of the zoning change when I came in here, but changed my mind after hearing the public comments. I would rather help everyone than fix just your problem now.

Loch: I'm more than willing to reapproach this, so we can get everyone where all they need to do is apply for CUP. The Planning Commission can initiate its own applications for amendment instead of going through an individual. Maybe we should have another work meeting to craft a meaningful plan.

Loch reassumed his position as chairman.

Discuss Upcoming Business and Next Meeting Agenda

Caroline asked to change the May meeting date due to conflicts. Everyone agreed to meet on Monday, May 13. A 6 p.m. work meeting will be held to try to craft something to address the bigger issue of workers. The Commissioners asked if Bruce Parker and Tom Jerome can be specifically invited to attend the work meeting. The main agenda will be to discuss the Table of Uses.

Nothing else major is currently slated for the 7 p.m. meeting.

Caroline moved to adjourn the meeting, Donna Jean seconded the motion, and all approved. Loch adjourned the meeting at 8:23.p.m.

Peg Smith, Planning Commission Clerk

Date