

Meeting Minutes, Boulder Town Planning Commission

April 8, 2014

Commissioners present: Loch Wade Tabor Dahl, Donna Jean Wilson, and Caroline Gaudy. Alyssa Thompson was out of town. Also present, Secretary Peg Smith and Town Council Liaison Tom Jerome. Members of the public present: Farlan and Mary Behunin, Leo and Barbara Gardner, Tom Torgersen and Jory Stewart, John Veranth, Scott Brodie, Josh Ellis, Dennis Bertucci, and Cindy Wilson.

Loch called the meeting to order at 7:03 p.m. Caroline moved to approve the March minutes, and DJ seconded the motion. All approved. Loch asked for a motion to close the meeting and open a public hearing. Donna Jean so moved, and Caroline seconded the motion. Loch opened the public hearing at approximately 7:06 p.m.

Public Hearings on Subdivision Applications: Fay Jepsen property and Behunin Property

Loch asked for comments on the Jepsen subdivision application.

Leo Gardner: I think people need to do with their property what they like. Our concern is the [irrigation] pipeline coming through there. As long as they respect our ditch right. It's an overflow, the pipeline goes on down. I want to make sure we're protected on the pipeline and the ditch. The ditch has been there a long time and pipe 20-30 years.

Loch said he thought Leo has a prescribed easement for that right and that it wasn't in jeopardy with the subdivision. Alyssa asked about the required letter from the irrigation company but Donna Jean said this is a private ditch; the irrigation company doesn't control it. Loch said if a ditch or pipeline is in continuous use for five years, you have a prescribed use and you can do everything you need to do to keep the water flowing. Tabor thought it would be important for a potential buyer to understand that.

Tom Torgerson (engineer representing the family) said that Leo should send a certified letter to the current property owner of the understanding and also do the same with any prospective buyer, and that should be all that would be needed.

Tom asked about access, and Loch noted a roadway marked along the top.

No further comments were made.

Loch asked for comments on the Behunin subdivision.

John Veranth said that people should have a right to do what they want with their property.

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No other comments were made. Donna Jean moved to close the public hearing. Tabor seconded the motion, and all approved closing the public hearing.

Discussion and Action Resulting from Public Hearings

Caroline asked about prescriptive easements and where to find info on that. Loch said that the state provides that info. The Commission had no further questions or discussion. Loch asked for a motion to recommend both preliminary subdivision applications to the town council for approval. Tabor so moved, Caroline seconded. All voted aye.

Continued Discussion on Table of Uses, Retail Sales and Farmstand Sales

Loch asked Alyssa to lead the discussion. Alyssa suggested the Commission curtail further action on the Table of Uses until the Commission can get a better handle on the big picture. It's not that the Table of Uses or the ordinance itself shouldn't be addressed--- there are things that should be removed and things that should be added--- but in the words of professional planners she talked with, we are on dangerous ground making rules based off situations in town. We need to step away from the situations; this is not where the planning commission belongs.

Tom suggested that we leave commercial sales in commercial zones, and remove retail sales from the table of uses and let people do what they need to. Caroline asked what that does to people who want to sell and don't live in a commercial zone. Alyssa said that's why other towns don't define it in their tables of uses. Our home occupation business permitting process will accommodate what is needed. Our own home occupation application form includes wordage that describes home occupation in words that aren't in the ordinance. That's why we should stop the conversation until we get some help.

Tabor: I've been frustrated with our conversations... to open up to allow sales everywhere undermines the zoning. I actually like what we're talking about---- to simplify things rather than make more it complicated. To go back to simplify is what I'm in favor of.

Loch summarized that Alyssa's point is that we're trying to do a lot of changes without the expertise. She'd like to stop the conversation about unnecessary restrictions. Let's just table the conversation until we get some help. Also, remove "retail sales" from the table of uses and wait to get more professional help.

Alyssa: I'll have to tell the Town Council that we already have our recommended ordinance change and the permit in conflict with each other. Donna Jean said what's confusing is that the town has drafted the language on the permit, but the Planning Commission had nothing to do with it. Two different groups of people writing two different sets of rules for the same thing.

Tom: So we're basically allowing retail sales in all zones for home occupations.

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Loch asked for a motion to delete retail sales from the Table of Uses. DJ moved, Alyssa seconded, but Tabor had a question first about the Home Occupation application.

Tom said retail sales is not a use, it's a condition that occurs under a use, which is a Home Occupation. Retail sales is already covered, so it doesn't need to be there.

Loch: So we have a motion on the table to delete the line item of retail sales from the table of uses. The issue of the Home Occupation definition is a separate issue. Loch called for the vote on deleting retail sales from the table of uses, and all approved.

He reviewed last month's action recommending adding a definition covering Major Home Occupation to the ZO. We'll proceed with moving it to the town. We're not doing anything about that right now. Our current definition and the pending one [for home occupation], both regulate any retail sales if a person gets the appropriate permit.

Alyssa: The Home Occupation permit recognizes the applicant is carrying out business for gain by a resident. They are required to follow all state regulations, state sales tax, etc. clearly implying that retail sales will take place. But this is not the same as what we recommended to the town council. I prefer the permit definition, even though it's in conflict with what we just passed on.

Caroline: We clearly can't have stuff out there that's in conflict with itself. Tabor said that wasn't our job. Caroline said we do need to ensure no conflicts in our own documents. Much discussion continued..... Caroline said it sounds like we don't need a major Home Occupation definition.

Alyssa: Regarding continuing ag and farmstands, we should get direction on this.

Loch said I'd like to table everything, including Bruce Parker's revisions and all other discussion on the Table of Uses until we get more training to go through it. Maybe we don't even need to fix it. We shouldn't have more discussion until that happens.

Tom: As someone from the Town Council, we trust you to send us a finished product. We rarely get any comments that haven't been heard in the Planning Commission, so we just pass it. So if you feel you're not educated enough, you just guaranteeing it'll wind up in an ordinance.

Dennis: what are your potential resources?

Alyssa: ULCT, Utah chapter of the APA, nonprofits such as Form Tomorrow. We're in a unique circumstance in that we don't get direct responses from our planner and we don't get direction enough.

Donna Jean: We really don't have a planner. Five Counties has sent people over but it didn't work out.

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Caroline: Regarding the Temporary Use Permitting process has the potential to make all other ordinances null and void. Are we going to hold off on those discussions? If we are, what is the timeframe for getting back to work on this? If we're starting way back at the beginning with visioning, this will be a 6-month to year long process.

Tabor: Wondering with Alyssa going to the training, that was a good step, and she already has some contacts. Could we send a copy of our ordinances to one of those people with list of some of our big concerns and questions, and see if they could come back with an answer and arrange a session? First have them look at it. Depending on their workload, that would answer our timeframe questions.

Alyssa: I think we can do some things on our own using the online tools. The person we need to hire is for overall help, available more or less on demand when we have questions.

Tom: We have a General Plan and our ordinances don't necessarily reflect that. We have a choice as a community to clarify what we want to be moving forward. When you go to planning help, you say we are really having trouble getting to ordinances that reflect our definition of who we are. I need help describing to the Town Council the necessity of this process and convincing them we need this help. Loch committed to go to the next Town Council meeting.

Donna Jean noted that the Commissioners don't have current copies of the 2013 revised General Plan.

Loch asked if we are all agreed to hold off for the next couple months talking about the Table of Uses until we get ourselves up to speed with professional help and the websites? Tabor asked about online resources. How about at each meeting we collectively talked about these questions after getting online and getting answers?

Loch: I suggest meeting together here with our computers and get onto the sites. We can informally discuss different planner options.

Donna Jean: One thing we don't have is a future land use map. For the general plan to work we need a future land use map. It's the overlay Alyssa was talking about.

Caroline: Maybe as we get into this process, we can prioritize the order of what we need to learn. Start funneling the issues.

Loch: Let's talk about temporary use permits. Donna Jean expressed concern about the lack of guidelines currently and that we need to determine guidelines on parking, restrooms, etc.

Caroline: I'd like to check online and with other towns. Let's make it useful townwide.

Loch: So let's do more homework and come back to it. Loch recognized Scott who'd requested to read a letter.

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Scott read from a statement, asking for Caroline to recuse herself from any future discussions involving policies related to Red House Farm. We feel this is an issue between neighbors and has taken too much time

Caroline: I didn't know that was coming, but I'll repeat the statement I've made all along. I'm not in favor of addressing any one entity. My position has always been that solutions have to address the entire town. I retain that. Anything I say or vote on will be applicable to the entire town, whether or not my position prevails on this board.

Josh: I guess I'm agreeing with Scott in that it feels very personal.

Dennis: Scott's statement is his opinion that he's not in violation, it's only his. It's not an official opinion.

Alyssa: I request this issue be dropped from conversation in the Planning Commission. The Planning Commission isn't an appropriate venue for this type of discussion. This is an issue for the Town Council to deal with a complaint. Loch agreed.

Continue Discussion of Temporary Use Permitting Process

Postpone until later.

Discuss Upcoming Business and May 13 Agenda Items

If no other business comes up, we can talk about the resources, and maybe turn it into a training session. We could identify one or two items and try out the online tools.

Tom: I would like to be able to go to Town Council with a sense of clarity of how you want to proceed and will put together a little statement for the Town Council.

Alyssa: I suggest taking Temporary Use Permits and go through the vision process: take it back to the General Plan, gather info from the state code, take TUPs from five other municipalities in the same population range from other states, then ask if this is aligned with our General Plan. She will send out info on the envisioning process.

Loch: To summarize, we're sending a recommendation to town to get remove retail sales from the Table of Uses, we're tabling further discussion on Table of Uses, we're going to look for some professional resources, and we'll talk about the temporary use permit (using online tools).

Tabor moved to adjourn, DJ seconded the motion, and Loch adjourned the meeting at 8:43p.m.

Peg Smith, Planning Commission Clerk

Date