

Meeting Minutes, Boulder Town Planning Commission

August 12, 2014

Commissioners present: Tabor Dahl, Donna Jean Wilson, Alyssa Thompson, Loch Wade, and Caroline Gaudy. Also present, Secretary Peg Smith, Cindy Wilson, Mike Nelson, Geneen Haugen, Ace Kvale, Dan Hitt, Lisa Varga, Bill Muse, Boz Bosworth, Carla Saccomano, Bill Geils, Chris Odell, Tom Jerome, Dennis Bertucci, and Judi Davis,

Loch called the meeting to order at 7:07 p.m. With the correction of a couple spelling typos, Donna Jean moved to approve the July minutes, and Alyssa seconded the motion. All approved.

Commission training: zoning changes

Loch's training is on zoning changes. He summarized: the Planning Commission doesn't make policy at all, it only recommends actions to the Town Council on issues related to land use. That includes zoning changes, certain ordinance changes, and subdivision applications. [It does approve conditional use permits.]

To change zoning, a person can download or acquire from Judi an application, the zoning administrator (Donna Jean) ensures the application itself is complete, then the application is forwarded to the planning commission and for a public hearing. The Planning Commission will discuss the application and the comments, then vote to recommend an action: approve, approve with conditions, deny.

Guidelines that the Planning Commission follows: There are two basic things—the General Plan and public input from public hearings. Our General Plan is somewhat vague; it's the Table of Uses in the Zoning Ordinance that determines specific uses. Regarding the zoning itself, there's no minimum requirement for size or number of landowners to determine a "spot" as in "spot zoning." It can be a single lot. We can put a zone anywhere we want in the zoning map, as small or large as we want to make it.

Online resource of helpful steps in planning: 1) who's making the statement of need (knowledgeable third party, someone directly affected, etc.)? 2) is it a complete change or a refinement? 3) does it comply with the intent of General Plan? 4) is there any other place that's better than what's proposed? 5) how does it fit with surrounding properties? 6) would a change have a detrimental impact on surrounding properties? 7) is there a community need for the change? 8) how much care was taken by the community in originally defining the previous use?

Given all this, and acknowledging that the Planning Commission cannot make policy, only work with existing policy, Loch suggests that the Boulder Planning Commission incorporate the following guidelines in its determinations:

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- Determine whether a proposed rezoning is in harmony with the General Plan.
- Determine whether the proposed rezoning is accommodated by current ordinances.
- Work with the zoning ordinance to ensure compliance

The Town Council depends on the Planning Commission to be knowledgeable enough about the General Plan and the ordinances and to do the detailed research required to make good recommendations.

Public Hearing for Muse Farms Subdivision Application

The Preliminary application is complete says Donna Jean, with new plat maps, plus all documentation required by the application. Alyssa asked Bill to add the location of the Muse home, its access road, and location of its well and wellhouse (to remainder parcel #4).

Bill presented his subdivision plan to the Commission.

Caroline moved to close the regular meeting and open the public hearing on the Muse subdivision. Donna Jean seconded the motion, and all approved. Loch reviewed the rules for holding public hearing. One person speaks at a time and states his/her name for the recording and minutes. Following is the summary of each person's comments:

Lisa Varga: Is irrigation water included in the lots? Bill said Lot #3 on the southeast end gets two shares of A water. People have already put down earnest money awaiting official approval; there is ¼ acre of well water and two shares of A water in their name, and he will share that water on their boundary. On the other two lots, three A shares goes with each lot. Lots 2 and 1 already have the irrigation line in. Tabor had asked previously if the map showed the pipeline easement. Bill said yes, the title company shows the 20 foot easement on lot #1. All the lots will have deeded irrigation water and will get a certificate for it signed at closing and held until their note is paid off; the water will be available the minute they buy it. Also the deed includes the statement that water can't be sold off the ground; it's included in the price.

Bill Geils: Is it true you can't sell arable land without water? Bill: people in the Boulder Irrigation Co can sell water but it has to be delivered in same quantity and quality within the company. "On my own personal projects, it has to stay with the land; that's not required elsewhere."

Lisa Varga: Please explain again the access road locations. Bill explained.

DJ moved and Caroline seconded to close public hearing and reopen the regular meeting.

Loch moved to recommend approval of the preliminary application, with the condition that the roads, easements, and structures on lot #4 be drawn onto the official plat map to be recorded. Bill asked if he needed to get the surveyor to draw them in, and Loch said it will be the official

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document so it needs to be accurate. Bill agreed to do so. Alyssa moved to recommend approval with the conditions, Caroline seconded the motion, and all approved.

Public Hearing on Outdoor Lighting Zoning Ordinance Change

Loch asked Mike Nelson, the applicant, to present his request. Caroline moved to close the regular meeting and open the public hearing, Donna Jean seconded the motion, and all approved. Loch opened the public hearing.

Mike Nelson: With lots of diversity in this town, we sometimes don't agree on everything. But in the three prior town surveys since 2004, the most highly supported item (at least 74%) noted as being important or very important: maintaining dark skies.

Mike wanted to note his primary goals in proposing his change:

- 1) Protect a community resource. What's a resource? If we had a special bunch of trees that people were coming from all over the world to see, we'd protect the trees. We need to recognize that people are coming from all over the world to see our area's dark skies. We look at other Utah communities that are largely tourist-based economies and what they do--- Springdale, at the mouth of Zion, and Moab---Springdale has ordinances that are pretty tight regarding signs and lighting; Moab doesn't, and it is brightly lit. While we don't want a 20 page document, we also don't want Boulder to become lit up like Moab.
- 2) Recognize the value of dark skies as a resource: scientific, economic benefit for businesses, health, quality of life within community, wildlife protection, etc.
- 3) Become eligible to be certified as a Dark Sky community. That designation opens access to sources of funding.
- 4) Plan for the future. Take the time to recognize what changes in tourist travel and growth can do to a community.
- 5) Align with our own General Plan and the wishes of the overall community.

Issues to be considered include safety implications and costs to implement. Threats to be considered if we didn't adopt a lighting ordinance include the effects of light trespass. Light trespass means the same thing as on the ground. Most of us respect that sign when we're out walking. Consider that obtrusive lighting can also trespass on a neighbor.

Mike handed out copies of the International Dark Sky Community Criteria. His initial thoughts were that this document is pretty restricting, so he worked with some other people to pull out the items that seemed more doable within Boulder. Mike's submitted changes are to be considered as draft copy--- intended to be worked with and edited. The suggested changes are about 1-1/4 pages. He read from his proposed changes. Much of the new language deals with specifics in terms of lumens, types of fixtures, and distinctions in lighting direction and source.

Loch opened the public hearing to comments:

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Dennis Bertucci: You're mentioning mercury vapor and outdoor lighting, but how about Christmas lights used year-round in some commercial and private residences? How is that addressed? Alyssa said other towns address that with a separate section on holiday lighting. We left that out. We felt this fell under the lumens cap anyway.

Cindy Wilson: Dark skies is already covered in our zoning ordinance. It already talks about shielded lights, etc. This isn't fixing anything because nothing is broken. I think it's unnecessary. Also, having commercial businesses shutting off lights at 11 is unacceptable primarily for safety reasons. Mike said we're trying to protect our resources for the future. I'm pretty confident if we added these few new elements, we could meet dark skies certification.

Farlan Behunin. I protest about 90 percent of that. We've already had one case of people snooping through our property and if not for the lights, we might have been cleaned out. Vapor lights, that why I got them is to shine so I can work. You're taking away our freedom. I'm for night skies. This could be opening up for a lawsuit. Mike said if you shroud a light, you still get the light. No, says Farlan, it goes straight down, not to the corrals. I can see the night sky. We have the night skies. I can walk 100 feet in any direction out my door and see the night skies.

Mary Behunin: If it wasn't for those lights...I could see a small, white minivan and two guys in the backyard, and when they saw me, they took off. If it wasn't for the lights, we'd have been wiped out. (Mary asked Tabor to add in about cattle calving all night.) Tabor: when we're calving we have the lights on and us crazy ranchers work around the clock. Mary: our cows don't tell the time and I'd be really pissed if Farlan tripped and fell when he goes out to check on calving just because he can't see. Mike said maybe motion sensors might be an answer. Or ag-related activities might be exempted. Mary: I appreciate the night sky as much as you do, but in agriculture, there has to be something else.

Tom Jerome: I'll speak strictly to technology. How we can have lights that do the job they're supposed to do without shining light onto adjacent property? I've been given the authority to change out the town light over the basketball court to LED with a shield so light doesn't shine off the town property. Maybe we don't even want a vote on this at this time until you can see how this works. The new LED lights are sharper, more natural than before, and we really don't know how we're going to feel about the new one... we may like this better.

Bill Muse: Good suggestion. Before I vote on this on the Town Council, I want to know the consensus of the community. In my straw poll of walking around, [this change] isn't going to happen. Another thing I have to take issue with is that our existing ordinance doesn't say do whatever you want. It came about as a result of a really bad case of light trespass in lower Boulder. Who are these [Dark Skies official] people? Why can't we be approved as we are with our existing lighting controls? The people who had the old lights have wanted keep theirs. The town has taken down the old things. This is already a dark sky town. I feel for safety sake we need some of the lights we have. Coming back from a school function in Escalante there was

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a total white out... if not for Farlan's light, I wouldn't have known where to turn. I'll go the way of the town, but I need to know what town wants. Mike asked Alyssa to read section 10 of the Zoning Ordinance so everyone knew what currently exists. (Alyssa read it.) Mike said the Dark Sky Committee, based out of Tucson, Arizona, attempts to identify communities with exceptional commitment to maintaining dark skies and promoting efficient outdoor lighting. [He continued reading their goals.] Mike: We want to protect our resource as a goal.

Tabor Dahl: My issue with this is giving up freedoms. Why limit ourselves with what we can do on our own property? I like the night sky. Not opposed. We can't make an ordinance for everything and as individual property owners we shouldn't have to give up our rights and our freedoms to do what we want on our property. When I look at someone's bad fence, it's offensive to me, but I won't make an ordinance about good fences. Mike: when I don't like the color of your house, that's my opinion. Light trespass is trespass across the bounds of your property.

Lisa Varga: [She showed the NASA map of the country's dark skies.] That's why we've decided to live here and stay here. We all appreciate it. It's our desire to be in a small town with dark skies. But we have uncertainty about the wording in the ordinance itself. How is it going to affect my business, your farming, our security? These are the questions we need to be looking at, but we all appreciate the environment of Boulder. We need to recognize: nothing that exists is going to change. No one's lights are going to be removed. We're going to keep Boulder the way it is. The intent of the words is to be more specific about what we've already written in section 10-12. Outdoor lights will be direct down, *not* no more outdoor lights. They'll be directed to where you need to see, not up in the sky or into neighbor's window. We'll use the lights when you need them. The lights you have will not go away. We're planning for the future. It's not a future of no lights, it's how to adapt these words to fit all of our jobs so we can protect this asset, this resource we have and also do our jobs. We want to keep Boulder like it is.

Boz Bosworth: From a different aspect, the Monument Advisory Committee that talked about the Dark Skies Committee and their intent. Their interest is to find, locate, and focus people's attention on zones of the planet that remain fairly dark. We have something most people in the world don't have. This org (Dark Sky) goes to those places--- so far Bryce Canyon National Park is the only one nearby that's capitalized on this initiative. But the important idea from Panguitch to Kanab is we want to keep families here in these towns and keep them employed. Juan Palma had said we want to encourage every way we can to bring people to this area. Ruby's Inn has done that. They attract not a rowdy group of people, but those who spend the night or more for one reason mainly—the dark skies. The Monument group wants to encourage certain types of people, such as those with the telescopes. Do we want to encourage them to come here or pass them along to Ruby's Inn? There's also the concern about a correlation between vandalism and dark skies. The answer is there isn't a correlation; it's not a big concern. We're in an enviable position to really take this next step. We can easily go to that next step of being recognized.

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Dennis: This Dark Sky org... if the town wants to be part of this, would there be any changes in the parameters you've listed? Mike: These are really guidelines, pulled from their document.

Tom Jerome: One of the things we can do with this ordinance is amend it to meet needs of the ag people in this community. I'm hearing the need for more consideration about special times and functions that may require accommodation. One thing would be to amend for "when it's necessary to carry out duties related to their livelihood, you can turn on lights for the duration of the activity." But I understand my ranching neighbors periodically need these when they need them, just would prefer that they're not left on all the time, to be a good neighbor to me.

Dan Hitt: What's a mercury vapor light? Mike: most cities are trying to eliminate these types of light. Judi asked if they're like Camille's. Lumens? Watts and lumens aren't the same thing.

Tom: with older technology you had to use more wattage to get same lumens. LEDs use 25% less wattage to get more illumination. You'll wind up in the long run saving money. LED versus sodium vapor = 66%, less vertical light, payback for replacement 5-6 years and then savings every year after that. These are practical considerations that have nothing to do with dark skies, just pure economics. Dan: [questioning #3, commercial light turn off at 11 p.m.] does this mean I can turn it on at 11:01. What is Farlan's place?--- it's not commercial, but the draft doesn't say anything about agriculture. Mike: we absolutely need to address the ag needs.

Cindy: I still disagree with shutting off business lights at 11p.m. for safety reasons. Commercial lighting purpose is for people to see outside the boundaries of the property. It's not going to change anything that exists in Boulder right now. So what are you afraid of? Caroline: it doesn't say you can't have light that isn't visible off property, just not the source of the light. You can see the pumps are there. I'd be concerned that there may be businesses, new development that doesn't share existing Boulder's desires and decides to put up something we don't want.

Mary: Most of the lights we have were here since Max was alive. What's wrong with them now.

Bill Geil: I'd like to speak to technology and economics. Having worked in construction all my career, dark sky is nothing new. Manufacturers are already making lighting with full cut-off. Everyone in Boulder doesn't need LED lights. There are fixtures called Benjamin fixtures, just a metal shield with an incandescent light. It's just a matter of directing the light. It can go over a big wide area, it just doesn't shine up. If I were Farlan, I'd be concerned that someone would be coming around saying you can't have that light. No, it's to manage the lighting. We can budget to get the latest technology with the dark sky features on them, but it doesn't mean a rancher can't have a light. Even cities like Phoenix are doing this with all their lighting and isn't a super expensive thing. Also, I agree with Dan, the 65 watts should be struck. To control the level of light you do it through the lumens, not the wattage.

Judi: Looking around at my lights... our solar lights shine until the battery goes out. Mike: those would be exempt because the lumens are so low. To clarify, if a light needs to be replaced, it needs to be replaced with the new stuff? Right now, even without this new change, it already

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would be covered in our ordinances. It needs to clarify the idea that you can keep the lights you have forever--- that isn't true.

Geneen: Crime actually increases with lights because bad guys can hide in the shadows, you can't see them, and they can now see what they're doing. Is it possible that grants might be procured to change out some of the lighting?

Bill Muse: The town is going to need to take more discussion. There needs to at least be a consensus of the town. Regarding legal nonconforming lights... if Farlan had one of his break, he'd have to change it out with something. I fail to see why we need any adjustment. I can be convinced, but I haven't been convinced tonight. Since the original wording was passed in 2005, not one fixture has gone up that's not in compliance. Why can't our town just put it out there? We're a night sky friendly community (with the ordinance we already have). Most of the comments I've heard are why do we need another ordinance?

Lisa: maybe we should form a group to talk about the issues that people are uncomfortable with and see if the proposal can be amended. Mike: I agree... this is a draft. Let's work a few things. I think this is important for our future.

Written comments: Camille's letter, Ashley's letter, Mary Jane's letter were read. (Written copies will be attached to final minutes.)

Loch asked for a motion to close the public hearing.. Donna Jean moved to close the public hearing, Caroline seconded the motion, and all approved. Loch closed the hearing and reopened the regular meeting.

Discussion on Lighting Hearing

Loch suggested holding off discussion until next month as it's already 8:55 p.m. Alyssa said it should go back out in the community. It's important to say this is a working document. It's very easy to amend items here. It's not changing what we have a whole lot. She said she would forward her suggested changes she made during the hearing.

Caroline: I like Lisa's idea of getting people with different points of view together. It would be good to have the input from all the interested parties.

Loch: if someone would like to form this committee, would encourage anyone who was interested to volunteer. This doesn't have to be an official PC committee, just a group to move things along

Temporary Use Permit Discussion

Held for next month.

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Agenda Items

The following items were listed for discussion at the September 9 meeting:

- Reword lighting with an ad hoc committee.
- Temporary use permit discussion
- Training--- Caroline will go on the APA site to review items on the website. How to navigate categories.

Tabor moved to adjourn, Alyssa seconded the motion, and all approved. Loch adjourned the meeting at 9p.m.

Peg Smith, Planning Commission Clerk

Date