

Meeting Minutes, Boulder Town Planning Commission

October 14, 2014

Commissioners present: Tabor Dahl, Donna Jean Wilson, Loch Wade, Caroline Gaudy, and Alyssa Thompson. Also present, Secretary Peg Smith, Adam Harmon, Jessica Frogley, Brynn Brodie, Tom Jerome, Bill Geils, Dennis Bertucci, and Jabe Beal.

Loch called the meeting to order at 7:04 p.m. Donna Jean moved to approve both the August and September meeting minutes. Caroline seconded the motion, and all approved.

Public Hearing for Ordinance Change to the Temporary Use Permitting Process

Loch's introduction mentioned the year-long discussions related to amending temporary uses. The current proposal is to split temporary uses into two types: Part one is for general usage covering 120 days max for certain types of activities. The other would cover special events for a 7-day duration. He then read the text of the proposed ordinance and revised applications.

Caroline moved to close the regular meeting and open the public hearing. Alyssa seconded the motion, and all commissioners approved opening the public hearing.

Tom Jerome: Question about the application. I've heard that proof of property tax payment is a requirement on the application. Is that a requirement of the state or county? Donna Jean said this addition was because of the town's planning consultant who added it because of not allowing any type of permit if there are delinquent taxes. Tom was concerned this would put the town in an enforcement position. Tabor said it makes sense that the town simply doesn't allow a use [if the property owner is not paying their taxes]. Doesn't seem like an enforcement issue.

Alyssa: Lot of TUP applications are from third parties, not property owners. [In my example] it puts me in bad position if the owner doesn't want to sign my application.

Caroline: I'd like to double check that with other planners, because maybe requirements have changed.

Loch: It's good for us to research this [requirement of tax payment issue]. I can completely understand why a subdivision application needs to show the taxes are current. I don't follow the reasoning for requiring it of a TUP, especially for a third party. If it's a state requirement, then it is, but we should definitely check it out.

Donna Jean: Bruce Parker said "any permit." Tabor asked if it was a liability concern. Loch said that wouldn't have anything to do with property taxes.

Brynn: I'm curious about getting notarized for each application. Donna Jean said that requirement could be scratched for the temporary uses; the requirement is really for building permits.

Alyssa: The signing is to verify that you are the person applying for the TUP, and that you're the one conducting that business.

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Tom: The other thing with notarizing is you're stating that you're going to be operating some type of enterprise, and this is a statement of what you're doing and what is involved. If it's not correct, there's no way to assure liability.

Donna Jean: If you're only going to do something for an afternoon, like a bake sale, to get this notarized is a problem. Maybe for the 120 period, but not for an afternoon. Alyssa agreed, that a 120-day event is a business. Caroline agreed: make it flexible.

Tom: I'd recommend requiring notarization for anything for profit. Anything nonprofit be exempt.

Loch: in favor of keeping simple. Tabor said "in Boulder we know each other." Loch suggested checking with a lawyer to see if notarization is legally required or not.

Caroline asked if one year refers to a calendar year? Yes, that makes it easier. What about venue-- events at the community center? Tabor suggested making events at the community center exempt from permitting. Caroline gave the example of the Holiday Market here--- that's definitely for profit; yoga class, no.

Loch: Things done in the in a public meeting place shouldn't require a permit

Tom: I don't think a TUP is necessarily on the public grounds because the town is giving permission in the first place. What about the town park?

Alyssa: I'd like to add something to the application that used to be on the forms: You used to have to show evidence of your business license and other town licenses to support that you are a business. Let's put it on there. It's a good paragraph that shows responsibility and you have to copy and append those licenses.

Bill Geil: In the case of an event, the event is the play itself, but there are rehearsals leading up to it. They may be more like meetings, but there are cars, people. Same with Harvest Festival, and all the planning leading up to it. Loch's response to that was that it would fall under the exemptions of number of people.

There was then a discussion on what amounts to public advertising. Electronic or posters?

Loch said to add as an exemption an activity not advertised to the general public.

Caroline: Would we certified a location for that particular use and occupancy? Alyssa said it does say you have to have a site plan. All that's needed is a hand-drawn indication of parking, bathroom facilities. Tabor asked about the person taking the application. Who would check it?

Donna Jean: You don't want a concert right next to your bedroom window. I can see where it would cause a problem. At least put in a better location on the property so isn't a problem.

Tom: There's a penalty for not fulfilling your permit responsibilities: you get blacklisted. You don't get another one. Caroline said she'd like to ask the question about requiring a penalty on the permitting process.

Tabor said there's a huge burden of proof about not complying. You'd be setting up for potential lawsuit.

Caroline: This is to protect everyone to make sure people are following established procedure.

Brynn asked about the limit on one 120 day permit. The community market is beyond 120 days.

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Alyssa: The market was started May 15, but said the application said weather-dependent it may run over the 120 days.

Loch: Let's keep it 120 days for a permit. A item requiring more than that probably should be under a conditional use, or change the permitting on that type of use.

Bill Geil asked about construction projects. That is generally covered in the construction permit.

Loch: If things are covered in another way, there's no need to cover in this.

Tabor moved to close the public hearing and reopen the regular meeting. Alyssa seconded. All approved. Loch reopened the public meeting.

Loch asked what we need to ask the lawyer about:

- Notary—why and when actually required
- Requirement for property taxes paid for a TUP
- Penalties

Alyssa said we also need to add to the application the paragraph requiring additional licenses (Sales tax, business). Delete words "in print or by posting." Include items from current app on showing a site map. Add "calendar year" wherever it says year.

Alyssa moved to recommend approval of the ordinance change to temporary use permitting and the Temporary Use Permit applications with these revisions Tabor seconded the motion. All approved.

Alyssa asked about the Table of Uses concerning Conditional Use Permits. "Temporary" is listed as a use; "conditional" is not listed as a use. It's not defined. Loch suggested there were too many temporary uses to list them all. It's a good question that should be looked at later.

Training Topic: Open Meetings

Utah Open Public Meeting Act is the basis. A few of the covered points:

- 24 hour minimum notification of any public meeting
- Utah Public Meeting Notice site and web
- Quorum for the Planning Commission = any three members. You're not allowed to talk about the public's business.
- *Public meeting* is open to the public, but not required to hear input from the public. This is distinct from a *public hearing*, which is held expressly for the purpose of hearing statements from the public. All persons speaking are recorded in the minutes--- their name and the substance of their comment.
- Only topics listed on the agenda can be decided upon at the meeting.

Discuss Stephanie Love Request for CUP

Item withdrawn from discussion

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Agenda Items

The following items were listed for discussion at the Nov 11 meeting:

- Tabor taking the Planning Commission training topic
- Discussion of Tom Hoyt's application for rezoning for his 12 acre lot.

Caroline asked to find out about the possibility of conferencing into a meeting while she's gone for the winter. We may actually need to change our own ordinance to allow this.

Alyssa: We're supposed to review CUPs once a year. Should we do the same for Temporary Use permits?

Alyssa moved to adjourn, Donna Jean seconded, and Loch adjourned the meeting at 8:25 p.m.

Peg Smith, Planning Commission Clerk

Date