

Meeting Minutes, Boulder Town Planning Commission

November 11, 2014

Commissioners present: Tabor Dahl, Donna Jean Wilson, Loch Wade, Caroline Gaudy, and Alyssa Thompson. Also present, Secretary Peg Smith, Tom and Caroline Hoyt, Colter Hoyt, Geogine Blaser, Sergio Femenias, Carla Saccamano, Josh Ellis.

Loch called the meeting to order at 7:00 p.m. Donna Jean moved to approve the October meeting minutes. Caroline seconded the motion, and Caroline, Donna Jean, and Loch Wade approved. (Tabor wasn't yet present.)

Training Session: Overlay Zones

Loch took this opportunity to describe the concept of overlay zones. The reason for an overlay is to provide a mechanism for accomplishing desired outcomes without rezoning. It can help a governing unit be more flexible in creating options within a zone.

We have examples of both such overlay zones in town. The town recently passed an Enterprise Zone--- this is a state designation and does not affect land use, but serves as an overlay for an additional purpose. Also, we have slope restrictions on slopes over 30%, regardless of zone. We don't call it an overlay, but that's effectively what it is. Other examples would be historic districts for areas specifically handling remodel/rehab appearance. Natural resources can be protected with an overlay, as in some area may not allow a septic system due to water issues on that site. An incentive zone might allow specific activities like affordable housing, business investment, arts facilities, etc. The trouble with incentive zones are the unintended consequences where an incentive ends up creating a bigger problem than the one you were trying to fix.

First you define the goal of the overlay zone as clearly as possible. Then identify the zone with mapping. Develop specific rules that apply to the overlay zone.

Overlay zones should include a public education strategy. You have to define the process for creating an overlay zone in the first place. Who initiates? A stakeholder group? You need to specify that in your ordinance in order to create the overlay zone in the first place. Then, be sure to keep everyone in the loop, particularly stakeholders and rest of town government. You also have to have a clear and distinct reason to create the overlay zone in the first place and be able to apply it across the board.

Caroline asked about the process. Answer: there is no process yet. An overlay zone may be a tool in our toolbox, but we have to be willing to do the preliminary work in the first place—setting up those processes, defining the goals and reasons, etc. A lot of public involvement and work has to come first.

Discussion on Hoyt Rezone Application

Tom Hoyt had submitted a conceptual plan for a development that would have required rezoning. Donna Jean (as Zoning Administrator) refused to approve the Conceptual Plan until an

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application for rezoning had first been submitted and approved. This discussion is on Tom's request to rezone his lot of approximately 12 acres just north of BOSS property boundary on the west side of Highway 12.

Tom said they had bought the piece of property to see if they could create something more affordable for families. He understood the common concern about "spot-zoning." He said he couldn't agree more about [misuse of] spot zoning, but in the absence of an overlay or a comprehensive plan, it can be done pretty effectively. The trick is to define what you want to do with it. I believe that in your documentation you identify why you favor it. You wouldn't be setting a precedent for a piece of land you don't want it to happen on. We think we'd accomplish meeting the objectives of the community, based on the town survey last time that said 56% being willing to look at zones smaller than 5 acres. Boulder needs to allow for more young families ; it needs to keep kids in the schools... Something needs to change."

Tom said this site also seems to meet General Plan language is maintaining the agricultural and green fields. This site is in the pinyon/juniper, not in an ag area. He brought out a map he'd created to see if it does match adjacent uses. One of the aspects of his lot is to provide a trail easement for the BOSS folks, so that's built in. It would be a particular thing to this site. We're proposing restricted building envelopes, determined by walking it: we wanted lots that provide protection from one house to the next, in terms of views, road, etc. His plan includes a piece of infrastructure for road and waterline extension to hook up to town water. Kids could walk to school from this site. The town's subdivision ordinance includes language related to subdivisions of four lots or less, which may not directly apply, but it seems to imply some flexibility.

Caroline H: It's such a treasure... the beautiful open farmland and the way it sits in the mountains. There are places to tuck in houses that don't create a visual impact. We want to do something that's gentle on the land, but wouldn't want to be putting the covenants on it because that is expensive. She clarified the building envelope would restrict the building location but not any restriction on the types of houses. We're asking for direction.

Caroline G: Do you plan to just sell lots or develop and build? Tom said it's hard to be economically feasible to build even small houses. Caroline H: the building envelope (120 x 100 feet) is small next to the 2 acres. A buyer would be entitled to do what they wanted with the rest of their land. Caroline G asked what other pieces of property in Boulder the Hoyts own. Answer: Deer Creek, and Black Boulder Mesa, 2 sites

Tabor: If you took out the trees, then grass would grow, so it could be agricultural. I understand why the restrictions, but if it were me, I'd want to do what I want.

Josh: The town allows ag in all zones. I have a greenhouse, my neighbor has horses. Much as I understand our ordinances, you could have what animals you want. I'd say the hardest thing is coming up with a down payment. Is it an option to owner-finance? Generally making that down payment requires family help. That's a functional limitation. I've looked at it--- to buy a lot and put a trailer on it is a \$50K+ ordeal. The biggest obstacle is seed money.

Tom said both the ag questions and owner financing were good questions, tbd (First step is the rezoning.)

Colter: when you look next door at the BOSS site it's green and lush. If you have 2.5 acres next to another 2.5 acres, you wouldn't want 100 cows next door. But a horse? Why not?

Josh asked about the water; Tom said it would be town water hookups.

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Tabor: My point is that people are independent and would want to do what they want, without a lot of covenants. Seems like going the wrong way, to impose new restrictions.

Loch: I'd like to speak directly to the application. The one is a concept and we can talk about that. The other is the zoning change. Here's the problem with the Zoning ordinance change. Right now, it says you have to have 5 acres minimum to build a house. If we were to say yes to your application, we have no criteria in any of our documents that would allow us to make an exception for you. Nothing that says pinyon/juniper and not ag is OK. There's nothing illegal about spotzoning, but the problem is that if we grant this application without other criteria, we're basically throwing out our 5 acre minimum.

Tom: Do you think you have the ability to put restrictions on a rezone? Loch: if we did, we'd effectively be creating a zoning overlay. So we'd have to back all the way up to the overlay process and create that procedure. There are people right now who are champing at the bit to subdivide their property into smaller than 5 acres.

Tom: You do have other zones defined. You could do a rezone with restrictions. You'd be creating a zoning overlay for that site.

Loch: The Planning Commission would have to get direction from the Town Council to start working on that process. The Town Council would have to have a vote on that to direct the Planning Commission to do so. This would not be a short process. It would probably take a couple years. There are lots of forceful opinions on both sides of this issue that would take awhile. If you're willing to go down that road, would suggest you need to go before the Town Council. If they approve, we'd be happy to devote a segment of time to work the process, but it's a long one.

Josh: "I'd thought all new development was on 5 acres and the other definitions were just to cover grandfathered properties. And Tabor, feel free to visit me in up in Heavenly Acres any time. I'd be happy to show you the pros and cons of small lots with no restrictions.

Tabor: I'm not saying no restrictions on buildings, but as far as trees. You could have something that looked really good with no trees. What do you mean by restrictions?

Tom: I'm really talking more about conditions, not restrictions. Conditions of the rezone would have to be spelled out. You simply couldn't subdivide without meeting those conditions. You do it now in the way you define the requirement for an access road, water access, etc, It would be along those lines.

Loch: That's the process we have to go through. If we approved this for rezoning, we'd be opening floodgates. Our idealistic and well-meaning desire for creating the possibility of affordable housing doesn't matter. The economics of Boulder will never run toward the supply side. It would still be a demand economy; there will never be enough. It doesn't matter how many subdivisions there are, the prices are driven upward regardless. We'd love to have affordable housing, but it would be hard to make work, especially when an acre in Heavenly Acres is \$40K.

Josh: Even if the land were free. .. The value of the land has significantly outpaced the value you can produce from it.

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Loch: I'm not trying to say no never, but I think we need to design them in such a way so as not to provide such an incentive that more people want to subdivide. We just have to be very careful.

Alyssa: The application meets the adjacent uses. It's important to look at. All the way down the town corridor. I do agree with what you're saying (Loch), but this is the only lot not being allowed. Spot zoning can be a tool for coming up with what you need. I don't believe it's that difficult. I think we can do that by asking what conditions you have in mind. The question is, are we willing to look at that as a Planning Commission and as a town. I don't believe you need to allow another person to spot zone just because you do one. The state has these tools already. You'd be adding the tool of how to add an overlay zone to our Zoning Ordinance. It would just be another use in the Table of Uses. You can absolutely define it so that not everyone can do it.

Caroline G: If you did go to the Town Council, would be a good idea to have someone from the Planning Commission with you so they understand the context of where this is coming from. Even just to go ahead with the process of the overlays.

Loch: I'd suggest you (Hoyts) getting on the Town Council agenda, to describe what you want to do in smaller than 5 acres, and that currently the town doesn't have any tools to do that, and you'd like the Town Council to authorize the Planning Commission to do what is needed to look into that. That way they're in the loop. We've made that mistake in the past of trying an idea without first getting the town buy-in. Then I'd suggest setting up a separate committee with interested people--- planners, councilpersons, developers, buyers. And work out how to define the affordable housing the town needs, but not giving people the tool they need to create a land rush. I'm perfectly happy to explore this to see how far we might go. Maybe it wouldn't take two years.

Alyssa: We do realize we need to follow the right process. The town sets policy, not us.

Tabor: I don't want you to think my comments meant I was opposed. This 5 acres thing is a big deal. For me personally, it sounds great. We just need to figure out the process.

Loch: If that's what the town wants to do. We need to make sure the town council knows what an overlay zone is. We may need to give them the training.

Colter asked why the five acre minimum was established in the first place. It's too small to ranch and too big for just a garden.

Donna Jean: At first we had 10 acres, then put down to five. One of the problems we have in Boulder is no municipal system; everyone has septic tanks and wells. And you have to have x feet between the septic and your water. We were going to do a survey to determine soil quality for the septic, but it was too expensive, and never happened. In town, the underground water is so close to the surface you can hardly dig a post hole without water coming up, so you can't have septic at all. That's the main reason. Poles Place is on a well, Boulder Mountain Lodge is on well.

Caroline G: You almost need an overlay to determine the septic and water situation.

Tom: I'm happy with what you're suggesting as a process. Even on these 4 lots, there's a significant cost to the subdividing. Our previous plan was the 12 units with a central septic, and rental. But the cost is so high, we couldn't do it. I think it would be good have some cross conversations on this... how to get conversations with the whole community on what they want.

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Caroline G: You can take a survey, but then you drill down and get really different responses. A cross-community committee would be the way to go.

Loch: Maybe the BCA could have some input on assisting this.

Alyssa: Will you be approaching us in December or later next year? Tom said he'd try to get on the Town Council agenda for January. He asked if the Planning Commission has a professional planner they work with. Caroline G said, "We've joined APA and can get good advice online, not just with Bruce Parker." Tom said one reason to not try to do this right away is to get some expert opinion on it.

Decide on 2015 Meeting Schedule:

The Commissioners decided on moving meetings to the **second Thursday of the month, starting at 6 p.m. during standard time and 7 p.m. during daylight savings time.** Caroline so moved, Alyssa seconded the motion, and the vote was unanimous.

Agenda Items

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

- Alyssa suggested a vision process for the town.
- Tabor taking the Planning Commission training topic

Tabor moved to adjourn, Caroline seconded, and Loch adjourned the meeting at 8:20 p.m.

Peg Smith, Planning Commission Clerk

Date