

**Meeting Minutes**  
**Boulder Town**  
***Planning Commission***  
**February 23, 2017**  
**Work Meeting**

Commissioners present: Carla Saccomano, Colleen Thompson, Tabor Dahl, Perry Tancredi calling in. Zoning Administrator: Curtis Oberhansly; clerk: Peg Smith. Members of public present: Mark Nelson, Scott Bigler, Mary Jane Coombs.

Carla opened the meeting at 6:36 p.m.

The purpose of the meeting was to discuss short terms rentals. Carla initiated the discussion by with her drafted proposal on rentals (see attached), and also referenced a summary of a court case that Curtis had sent to the Planning Commissioners. Curtis said when you're talking about private property rights, there's a presumption in favor of the private property holder. Most limitations, in the short term rental scenario is to start with elements that endanger the health or safety of community, or that disrupt citizens within a community.

Regarding Carla's draft, Curtis warned against making a generalized statement of prohibition. The wording has to specify why/how you're taking a private right away.

Colleen suggested deleting the "campground" item (on the Table of Uses) entirely, and just use the combined "RV and campground" definition. Curtis said it would be best to consider the policy concerns that the public wants to address. Don't worry about actually drafting an ordinance---that's for the lawyer. You have to have findings of fact and conclusions of law to show harm that you're trying to mitigate. The Planning Commission needs to figure out policy considerations and the pros and cons, balancing private against community. He illustrated his point showing a private home as having the highest constitutional protection, followed by the developer. A town's powers and duties are different. When an application to develop comes in the town has broad powers on accepting things like roads (health and safety), fire protection, etc. Eventually the development will become individual private properties. The legal tests are different depending on the circumstances.

If one considers making restrictions on short term vacation rentals, Curtis gave an example of a Con being the right of a property owner to rent it out. Example of a Pro (restriction) would be neighborhood disruption.

Curtis: With each use, craft a set of policy statements... "Here's what we think our town wants."  
Re: short term rentals, a lot of towns have limited rental terms to a 30-day minimum. The owner can rent it out every 30 days. Wayne County requires a business license and a tax id number. If the county receives complaints, they can revoke the license. In addition, a property owners has to have a property manager meet guests to guide them to the property, admit them to the house, then be available 24/7. You can't restrict the use as an investment property.

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Tabor asked about state code regarding short term rentals; Carla hadn't found anything.

Carla said Boulder seems to want locally owned businesses, not franchises, however, the town can't just restrict corporations; that does not equate to outside ownership. Instead, consider each individual type of enterprise to define "formula" business, and compare that against what the general plan says regarding town identity.

Tabor: "Folks in Boulder are more concerned about doing what they want to do than have strict regulations that prohibit. If Mark Nelson says he wants an RV Park in the center of town, people tend to want to let Mark do what he wants to do. You can't pick one view or the other. The town boundaries being so big create some of the issues. We have ranches within the town and are defined by town codes and that creates problems.

Perry: The reality is you can't actually do what you want on your land. Ordinances need to protect rights people have in a way different from state or county. Everyone has to abide by some ordinance. Scott agreed: You can't do absolutely anything. No pig farm. A bad example is Cortez, CO, where it's apparent there was no planning the way houses are set next to business or junk yards. It's ugly. I wouldn't want Boulder to become that way. We have to figure how to plan so that growth maintains what we like now. Asked for an example of somewhere they did it right? Ketchum, ID or Hailey.

Curtis: You don't look at property rights in single cells, because what you do affects me. We're in it together.

Mary Jane: People say they want it to stay the way it is but they don't want ordinances. If you do want it to stay the same, you have to be willing to make tough decisions that some people won't like. Scott agreed: You guys won't all be of the same mind. It's incumbent on planning to try to get the best feeling of the community, but it won't be possible to satisfy everyone. You're trying to do something in the best interests of the community, but you have to look to the future. If not, you get the result of those tourist towns. Curtis: the ranchers want the open fields and water. That seems to be where good accord and balance that can be.

Mark: There's a difference between a Bed and Breakfast establishment and a landowner rental. You need to make that distinction. Make that list of where you want to have it. All the pros and all the cons. Discourage short term rentals by requiring them on the 5 acres lots.

The Commission agreed to use common terminology to describe what is otherwise known as an air BnB: "Vacation rental home"

Scott said his daughter had purchased one in Island Park, ID. She had to have a business license, maximum stay is 30 days, there's a ratio of allowable number of people to square footage.

Tabor: Next meeting, let's pick one or two definitions to work on and just fix on those. Create the pro and con list on two things. Vacation rental homes. Bed and Breakfast.

Curtis: For example, a Pro: limit to 30 days. What are the arguments against that? What could we do to mitigate the concerns? Lot size: Property manager required? Conditional use?

Meeting ended at 8:08

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Peg Smith, Planning Commission Clerk

Date