

Meeting Minutes

Boulder Town

Planning Commission

March 8, 2018

Commissioners present: Carla Saccomano, Tabor Dahl, Colleen Thompson, and Perry Tancredi (calling in). Secretary, Peg Smith; Town Liaison, Pete Benson. Members of the public: Mary Jane Coombs, Kathleen Woods, Elizabeth Julian, Donna Owen, Alyssa Thompson.

Carla called the meeting to order at 6:03. Colleen moved to approve the Feb 8 minutes with the addition of Donna Jean as present. Perry seconded. Carla, Colleen, and Perry approved.

Zoning Administrator Training Session: Conducting Public Meetings

Curtis: It's up to you how you want to conduct your meetings. No strict protocol that dictates that, other than the difference between a regular public meeting and a Public Hearing. In a public meeting, you all speak. You (Planning Commission) have business to discuss; you're usually trying to get a consensus on an issue. If it's an application, the applicant speaks; you ask questions, the applicant answers. Peg's job is to record and prepare an accurate record of the proceedings. My job is to research what you need and to enter into the dialog as necessary to inform you about case law, background, etc. The public's job is to listen.

At a Public Hearing: the public speaks, the PC listens. That's in the statute, so the public gets on the record. If you allow the public to speak at regular meetings, it's just a roundtable discussion, and they're just talking to each other. There's no way to get thoughts to jell around an issue. If the discussion is on an application, it should be a narrow issue, and that narrows the scope of the Planning Commission discussion. If you want to solicit public input, you should structure that in. Normally, you might have an agenda item of public questions and comments. Any comment from the public needs to be on the record. It's important to keep a clean record. The individual stands at a podium, they must clearly state their name so are clearly on the record. This becomes very important if anything is ever challenged. It's critical that it's clear who is speaking and what they say.

That's how 99% of Planning Commissions work. If you want to get your business done effectively, you need a system. That's one template.

Tabor: The idea of a podium is really helpful. Where I see the problem is where it goes back and forth. Discussion is good, but it's hard to get the discussion back to the business issues. It's important to get public's opinions, but it's important to bring it back to us. Curtis: you can schedule a work meeting where no public comment is accepted at all. Or the opposite—you can schedule a full, public roundtable. In general, I'd suggest doing [public comments] at end of the meeting. Or if there's something of specific interest, after that item. You can put a time limit on questions or comments.

Carla: I'd personally like to see comments at the end of the meeting, posted as a regular agenda item.

Colleen: I like it being more structured, with the podium. People tend to say the same things over and over. If they stand up and say their names, that's better. Like the meeting we had last

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week, it goes two hours with same stuff being repeated. Curtis: If you go off topic and discuss something not on agenda, you get a flawed record. If it's a work meeting, you're probably needing to make a resolution or decide on wording. It isn't the place for a free for all.

Carla: should we add comments as an agenda item at the end of a meeting, with a two minute limit. Perry agreed.

Discuss Plan for Community Group Feedback

Elizabeth presented the written summary of the Housing group's interim progress (attached). She said they would meet twice more, then wrap up at the end of the month.

Colleen said the Economic Dev group is holding its public input meeting next Monday night. They'll meet a few times afterward to deal with any comments, then wrap up their work.

Community Identity group is basically complete. They are meeting on March 14. Both Land Use groups meet together next Tuesday to correlate findings.

Colleen asked about the resource people and when it's appropriate to bring them into a group's discussion. Carla said if the people in your group are asking about a thing, then yes, use the resource if you want, or for issues we want to know more about.

Carla said Steve Cox had talked about having an open house in the big room at the end of these sessions, with all the groups. Tabor agreed. A date needs to be set. Commissioners decided tentatively to have groups plan on something during the week of the next Planning Commission meeting, either on or before April 12. Perry may be on his way back to Boulder then too.

Discuss Public/Private Roads, cont'd

Perry: In terms of the principles we discussed before, first, we agreed the town doesn't want to be responsible for building roads to people's parcels. We don't want people to build roads that can't be extended. We want to minimize the number of roads in town that to follow the General Plan. Private roads should be able to be extended to access private properties, and if necessary, it may get to the point where the road needs to be dedicated by the town.

Carla: Donna Jean had mentioned the situation where an original developer pays for it all, then the next developer gets to take advantage of the investment made by the first developer.

Curtis: To clarify, Boulder used to have a minor subdivision provision, but it was removed in 2008. The four lot language in there applies only to description of streets. The ordinance language needs some work. That the 4-lot reference should be used to solving a hardship problem, like Ward Coombs. You need to give the town the discretion to solve a little hardship problem created by pre-ordinance parcel issues. But for a new application for a subdivision on a blank slate field, that's a different situation in which the town has some latitude.

Tabor had a question about extending roads and when they'd become public. Perry you don't want someone to be able to shut out someone's use of a road. At some point that private road may have to be incorporated by the town. Every road in Boulder is a public right of way. There aren't any gated neighborhoods. The terms public and private are a little misleading. Any road that accesses more than one property is basically accessible by people in town. The main point is we don't want to allow people to control who has the right to use a road. If each new subdivision has to create its own access, that automatically increases the need for more roads. People like private roads. If we allow that, it'll happen.

Curtis cited page 25, section 500-4 of the Subdivision Ordinance, "dedication of streets and other public places"-- That's a piece of what you're getting at. It appears to give you complete discretion over how you want to handle it. In the earlier section about streets, SD 8a and 8b1, you can structure that plat and recommend to the town public access streets, if there's adjoining

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public property behind them. Perry agreed. “I didn’t think I was proposing anything new.” This is just further explanation of what our ordinance says. We may already have this capability but just haven’t been applying it because it’s in a different section than the roads section. What does “discretion” really mean? Curtis: It means you are acting in the interest of the health, safety and welfare of the public you serve, and streets are one of the most prominent elements because they carry traffic. Perry: The General Plan advocates minimizing the number of roads, such that our open fields don’t end up all cut up. That doesn’t fall under health, safety and welfare. Is it within our rights to use our discretion based on what the General Plan says? Curtis said a subdivision is a negotiation. The Planning Commission represents the end user (buyer). The developer represents the private right. It’s well established that the town not only has the right, but the duty to consider these things.

Curtis: Trying to do something after the fact becomes very difficult. That’s why you want to pre-plan your policy and provisions. There is a provision in state statute, that any platted road that doesn’t specifically state “private” is defacto “public access.”

Perry: Let’s say a road accesses 4 lots. The second lot owner decides he doesn’t want the road there, and cuts it, blocking the last two lots. The road might be on your property, but you can’t do anything you want to it. Curtis: said “eminent domain” means the governing entity is condemning something at fair market value to buy it. This is different. No one can destroy that road and cut off those lots that are part of the plat. But for lots behind those four properties, the matter gets sticky.

[Discussion about right of the town to intervene in disputes about road access and usage. If it’s a dedicated road, belonging to the town, that’s different from private roads.]

Tabor: For future planning, this seems like good start of how to prevent future problems. Curtis: It needs to be very clear on the plat what the developer’s intentions are, what lots are accessed by the road. The other thing that needs to happen, based on our current ordinance, is a road agreement shared among lot owners. The road agreement spells a lot of this out. The plat should give contractual right to those owners. It’s binding, it’s in a deed restriction that runs with the land. \$50 to form an association. That should be part of your approval of the plat.

Carla: Back to Perry’s point of agreeing in principle that roads be laid out with the understanding and intention that they could be extended when further development happens. Are we agreed on that?

Tabor: I don’t know. It depends on the circumstances. There are too many circumstances to have a blanket approach. Carla: I think it’s worth pursuing, unless there are physical circumstances on the ground to take into consideration. Tabor: I generally agree, but not completely. If a developer knows there’s the potential of their road being extended, maybe they wouldn’t do the subdivision. But I think about the property rights issue, like if you had a small subdivision with an access road, but a large, separate piece of property behind you, that seems like a hard burden on the small subdivision—to be the access to a huge subdivision.

Curtis: It’s a policy discussion.... Subdivisions over a certain size are required to have a secondary access. I think you want keep the policy discussion going, and as you do a subdivision, you ask to be presented with options. Think about parallel, adjacent roads, or landlocked parcels.

Perry: I want to set the expectation that you can’t control how much traffic will end up on your road. Whether intended or not your road may become more heavily used because it may ultimately lead to more lots [that didn’t initially exist]. The problem isn’t the ordinance, it’s the expectation of private and no traffic.

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Curtis: By next month, I'll draft a memo that draws together all the provisions in your ordinances that give you the power to shape the subdivision and shape your decision in regard to roads—where you have discretion. With subdivisions and roads and streets, it's really hard to do one size fits all. You try to have a policy, but it really needs to be decided case by case.

Tabor: It's reasonable for anyone coming in to expect to pay for road maintenance. Curtis: If is not a dedicated town street, we have to have a road agreement. Doing what needs to be done is expensive. If someone else comes in, you have to determine the obligation of the developer who wants to add more lots behind them. If the town doesn't dedicate the road, maybe there needs to be something in the ordinance about joining the existing road association?

Tabor: Maybe with new applicant, we ask them to come forward with a plan on how they're addressing this. Even if it's a single dwelling, they identify the cost to come in on the road.

Curtis: We need more research, but it could be structured into the road association part. Costs are quantified. The town has to review and approve the road association agreement.

Tabor suggested tabling the discussion for evening. Curtis will try to have a memo out in advance of the next meeting.

Upcoming Business and Next Meeting, April 12

Carla said if we don't have business we'll use that night for committee presentations. Perry said it would be good to document the discussion going back to the intent, break it into chunks so we're not starting from the beginning. Tabor agreed. If we document our intent, and it's clear, future planning commissioners can continue policy discussions.

Tabor: Our March 1 work meeting required more research into what we could legally do regarding vacation home rentals. We need to look at other town ordinances. Colleen would like to move forward on the community group recommendations right after we close out the committee meetings and not delay that too long. Carla suggested scheduling a meeting at the next meeting to finish out the vacation home rental decision.

Carla asked for comments from the public. No comments.

Tabor moved to adjourn, Colleen seconded, and all approved. Carla adjourned the meeting at 7:23 p.m.

Peg Smith, Planning Commission Clerk

Date