

**Meeting Minutes**  
**Boulder Town**  
***Planning Commission***

**May 10, 2018**

Commissioners present: Perry Tancredi, Matt Cochran, Josey Muse, Colleen Thompson, and Tabor Dahl. Secretary, Peg Smith; Town Liaison, Pete Benson; and Zoning Administrator Curtis Oberhansly. Members of the public: Steve Cox, Tom and Caroline Hoyt, Elizabeth and Troy Julian, Bill and Judith Geil, Mark Nelson, Alyssa Thompson, Donna Owen, Mary Jane Coombs.

Perry called the meeting to order at 7: 04. Tabor moved to approve minutes, Colleen seconded, and Tabor, Colleen, and Perry approved--- with a date typo fixed.

***New Commissioners and Vice Chair Election***

Moving from his vice-chair position into the new chairperson of the Planning Commission, Perry welcomed the two new commissioners, Josey Muse and Matt Cochran, and reviewed how he plans to conduct meetings and public hearings. A podium will be used when people are addressing the commission, both for better clarity of the recordings, as well as more focused and time-limited commentary. Perry wants to encourage public feedback, but within more of a structure so the commission can get through its work.

A new vice chair needs to be elected. (Perry corrected the nomenclature on the agenda; the position is for “vice” chair, not “co” chair.) Matt nominated Colleen, Josey seconded the motion, and all approved. Colleen Thompson is the new vice-chairperson.

***Report from Zoning Administrator***

The ZA reviewed some basic terminology and state code history:

Our ordinances are a reflection of LUDMA [the common reference to the state’s Land Use Development and Management Act]. The reason LUDMA was enacted in the early 2000s was to govern development and sale of properties. Most of the provisions of the act are consumer protection-oriented, especially related to subdivision ordinances to protect the ultimate buyer. Boulder’s 2008 Zoning and Subdivision ordinance updates were done chiefly to reflect the LUDMA provisions. The responsibility of the municipality is to correspond to requirements in the state code.

The Planning Commissioners’ role is both legislative and administrative. In the legislative role (planning, evaluating, and recommending land use policies) —your personal philosophies, your experience, etc. are all relevant. In the administrative role, your feelings are not relevant and shouldn’t be in the record. You discuss the facts. You look at facts in a situation, and marry those to the ordinance. We are obligated to base decisions on findings of fact. Otherwise decisions can be challenged. Your administrative role is interpreting ordinances as they exist and making decisions based on fact, not philosophy or personal opinions.

Clearing up more nomenclature confusion: *Regular* meetings are scheduled for the year, and posted, in January. *Special* meeting can be called by the chair or members. A special meeting might include work meetings or any other meeting that’s not a regular meeting. Regular

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meetings are *public meetings*, which means the public is required to be notified about them (and the agenda) at least 24 hours in advance. A *public hearing* occurs within the context of a public meeting. [If a public hearing is scheduled, that notification goes out **at least 10 days** prior to the hearing, and it is also published in the paper.]

In handling the matters of substance that come before the commission, Curtis emphasized it being the chairperson's prerogative on how to address commentary and public discussion. Most Planning Commissions have an established set of procedures or bylaws, which he suggested this commission consider adopting.

### ***ADUs and Vacation Home Rentals***

Perry wanted to combine these separate agenda items and include some public questions and comments.

He said it's the Planning Commission's responsibility to give the Town Council something actionable, so he further suggested the Commission pass along notes of its intent and reasoning when it makes its recommendations. For example, in suggested ordinance changes, an added section (Whereas....) could describe the reason for the change. He said the commission doesn't need to come up with the legal language. But he would like the Commission to agree on a basic recommendation to the Town by next meeting. Curtis read pages 51-52 in the Zoning Ordinance that gave a further example.

Perry: On Accessory Dwelling Units: Currently our ordinances recognize a dwelling unit as being, typically, one dwelling unit per lot in the residential zones. (Accessory buildings that are not "dwellings" are currently allowed.) Perry stated the questions to be answered: "Should Boulder allow ADUs in residential zones? For family or for any guest? If yes, do we want to restrict zones, size, whether the structure is attached or detached, and then decide on circumstances for renting? Short term, long term rental? Can you only rent if you are a Boulder resident? Etc.

Josey: Purpose of ADUs. We do have a housing problem in Boulder. We have a problem housing seasonal employees which puts pressure on our local businesses. I think the needs are justified and that can be stated in intent. There should be different ordinances for short term vacation rentals and for ADUs, as there are issues that don't apply equally to both. For example, my concern with short term vacation rentals is safety, thinking of the frequent changeover of multiple, unknown people in a neighborhood. But I think the 30-day-plus rental of ADUs is really needed here.

Curtis: A 1998 case in Utah decided you can't restrict the term of a rental. You can stay under a 28-30 day period and be called a transient or vacation home rental. Over that is a normal rental, which is not regulated. Josey said month-to-month is sometimes needed too, such as for ag workers.

Perry asked if there was consensus on dealing with housing for seasonal workers. Matt: yes, ADUs are a good move for Boulder, with conditions, and not only for employee housing but also for guests or families. The most important thing to me is the need to hold to the intent of the General Plan and to keep the character of the town. Tabor said the Housing committee generally felt ADUs "done well" would be good way to address housing needs. What's "done well?"

Perry: Then talking about simply housing guests? Josey said it comes down to a financial transaction--- are you doing this to collect rent or to house family guests? Perry said that now, this use isn't allowed at all, rental or not. He said given that Boulder already has such buildings, his impression is that the town wants to allow ADUs. Tabor said to be careful--- that changing the one dwelling per five acres could potentially things open.

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Perry said he hasn't heard any objections to ADUs for family and guests. Enforcement is an issue, but not a reason to not do something.

Curtis: Point of clarification. There would never be five dwellings; you'd have to subdivide to allow that. You're talking about one additional dwelling unit in whatever zone you're allowing, not two or more. You can place size limitations on the building. Everything is about context. We're on such large lots here. Colleen said she appreciated the example and wording of the Cottonwood Heights ordinance that Curtis had sent out to the Commission.

Perry: So what parameters can we control? For example, I don't want a large primary house with a large ADU; maybe proportionate to the primary house. Perry: what are we trying to achieve? Limit the living space? Not encourage a large secondary residence? Tabor: I'm not thinking of a family living in it necessarily; maybe more seasonal ones or twos. Matt: I like keeping with character of Boulder regarding size. Something that keeps the rural and quaint atmosphere of Boulder. You could also limit sq footage, depending on whether you're in a high or low density zone.

Perry: So the intention is to restrict secondary units to a size in keeping with the character of the community?

Perry: Zoning: Currently Low density residential, medium density residential, and high density residential. Do we intend to allow ADUs in each of those zones? Colleen said not in HDR; think of two houses on one of those small lots. She suggested different rules for different zones. Matt said people on small lots may also need to make some extra income, so you can't cut that off. Tabor: It may actually make more sense to have up ADUs in that small lot development. There's not a lot of ag going on there. Maybe it's a more appropriate place for it. Perry: yes, our low density zones are also used for ag. Tabor: You could allow ADUs in all zones but make proportionate size depending on zone. Josey: You already have areas that are high density, so what are the additional impacts in increasing that density, such as septic? Perry: If you potentially double the density, do the people care about that increased noise? But we also have to be fair on where it's allowed.

Colleen: People in low density zones potentially need a person to help on property, or additional income. Tabor: Septic could definitely be a condition, based on location and perc test. The size of a structure could be dependent on that.

Perry: Finally, an intent would be for ADUs to be a secondary use of the property. There are ways we could encourage that. We can talk about that later.

Josey: In the Cottonwood Heights example, they restricted ADUs to a permanent structure. I'd like to discuss what we have right now in Boulder: they're mostly mobile-type structures, such as tiny houses, trailers, yurts... Perry said now mobile homes are excluded as dwellings; only for certain period during home construction. Maybe the intent behind an ADU ordinance is they be permanent structures. Tabor said we're not trying just to make what exists out there legal, we're trying to move toward what we want. Perry said the person staying in a tent on someone's property is legal right now; the ADU discussion doesn't apply there. A discussion followed about moratorium on allowing temporary structure ADUs to allow property owners time to transition to building permanent structures. Curtis said all temporary structures are illegal now, other than the permitted RV during construction. Otherwise a dwelling has to have a foundation and a roof on it. A tiny house, off wheels, could be legal. What you'd need would be a mobile home park to accommodate this as a stepping stone.

Perry: Six intentions: to provide housing for seasonal, restrict size, provide for guests, allow in each residential zone, intended as a secondary use, and intended as permanent structures.

Perry opened the discussion to the public:

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Tom Hoyt: I like the intent direction, and the proportion part makes sense. On the definition, it's not just seasonal employees, but might be the caretaker possibility too.

Steve Cox: I've been listed as having an ADU, but it has no kitchen facilities. I think you need to address what facilities are contained within ADU.

Alyssa Thompson: I'd like you to keep in mind that they're already allowed for employees. Tabor has a legal ADU, already allowed in GMU and Commercial zones. I like the idea of establishing intent. An ADU should have a Certificate of Occupancy, and that's the county's responsibility. Think too of future use—all ADUs will be different as owners of property change. The original use may not be the new owner's desired use.

Elizabeth Julian: I support ADUs and to keep the use broad. We own 10 acres that we don't want to split, but we do want to finish a building that's currently there, with the full range of uses that might change with our needs. One of our committee suggestions was a maximum sq foot or percentage, whatever came first that would fit into each of the three zones. I agree with Alyssa, you don't know what will happen with next owners. Whether it's being used for guests or rental is a separate thing. The need for people to use their property as they want is separate.

Troy Julian: Proportion thing: we have a smaller building that's already built. If we finish it as an ADU and moved into it instead, what is it then? Our house would be too big to be an ADU. What about that situation?

Bill Geil: I support all the parameters you've laid out for framework and I support ADUs. You could stipulate square footage in your intent, but in personal situation, that seemingly logical rule would be weird. We deliberated between rebuilding an existing pioneer cabin versus building something new and bigger. As a result our house is less than 400 sq ft on 5 acres. Maybe we'd like to build another larger structure later so the one we restored is the accessory.

Colleen: I live in house way too big for me. I see my family coming and living in it and me building a smaller house. Can we cover each scenario? Alyssa: I'd like you to include ADU discussion in GMU and Commercial zones in the definition. Donna Owen: In our committee, we saw ADUs both within the house and external, especially in high density areas.

Perry: I don't think we should define which building is the primary residence. In terms of the math of the proportions, that's a detail we can work out and present later.

Tabor: How about equal size or smaller? Going back to Donna's point, if an ADU is within the main structure, with separate entrance, you'd require a kitchen, bathroom, bedroom, living area. How do you police that? Maybe the people want to share their kitchen. Perry said the ordinance currently defines single housekeeping unit, and people do share the kitchen. Tabor: an attached ADU won't have the same effect on the character of neighborhood and density.

Curtis: you will need to define attached and detached so it allows one other dwelling unit.

Perry: the intent of ADUs is non-transient rentals. I'll like to add that to our intentions. I'd like to incorporate some of the questions and comments to for the next town council meeting. Before we make an actual recommendation, we'd need a public hearing.

Curtis: You can set up a public hearing to discuss your intents. Write up something like the Cottonwood ordinance that people can look at. You want to move things toward a recommendation. You're not out anything by having a public hearing and talking about what you have.

Perry suggested skipping the next two agenda items on vacation home rental and nonconforming uses in order to discuss action on the committee work. Curtis said he's been approached by a property owner to answer questions on a nonconforming use and had a question.

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Curtis said he'd been asked by LeFevre's about Halls store. It's zoned commercial, but the adjoining properties are all residential. This affects the required setbacks on that property, preventing any remodeling. This is something that could be straightened out by looking at correcting the zoning, specifically on public spaces. We don't have a zone defined for that. Perry suggested adding that discussion to the public hearing.

### ***Discuss Community Group Plan to Address Recommendations***

Perry asked the commission if they'd like to hear from the groups directly or just read their reports. Colleen said either way she'd like a work meeting scheduled to discuss them. Perry said the intent is to get the Planning Commission up to speed on the recommendations, but not to make decisions.

### ***Discuss Upcoming Business and Next Meeting, June 14***

Planned topics for the next regular meeting are:

- Vacation home rentals
- Nonconforming uses and corrective zoning
- Public hearings on both the above

Tabor said that meeting will be Flag Day. We should have something that recognizes that, and Perry agreed. Perry opened the meeting to final comments from the public:

Mark Nelson: I'm uncomfortable going to a public hearing so fast. Perry said the documents to supplement the hearing will be available within the 10-day window before the hearing.

The Planning Commission decided to schedule a work meeting for Thursday, May 17, 7 p.m.

Tabor moved to adjourn, Perry seconded the motion, and all approved. Perry adjourned the meeting at 8:38.

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Peg Smith, Planning Commission Clerk

Date