

Meeting Minutes
Boulder Town
Planning Commission

October 11, 2018

Present in the room: Commissioners Matt Cochran, Colleen Thompson, Josey Muse, with Perry Tancredi calling in remotely. Secretary Peg Smith. Zoning Administrator Curtis Oberhansly. Members of the public: Steve Cox, Tessa Barkin, Cookie Schaus, Elaine Lott, Elizabeth Julian, Bill and Judith Geil.

Vice-chair Colleen Thompson called the meeting to order at 7: 04 p.m. Minutes for September couldn't be approved with only Matt and Colleen attending from the quorum.

Review differences between ADUs and Residential Short Term Rentals

To preface the discussion, Colleen had asked the Zoning Administrator to clarify the differences between accessory dwelling units and residential short-term rentals. The public hearing comments from last month on the draft ADU ordinance indicated massive confusion between the two issues, as well as the question as to why both uses couldn't be combined into the same ordinance. Curtis's summary of the big differences:

1. ADU: 30-day minimum rental, no transient room rental tax. RSTR: Required to collect sales and TRT.
2. ADU: Separate dwelling, which can be attached (with separate entry) or detached. RSTR: Can be a bedroom within a house, the entire house, a tent.
3. ADU: 30 days minimum rental. RSTR: Can be one night, not longer than 30 days.
4. ADU: Addresses the several existing "guest houses" being used primarily for family and friends (non-commercial) or for housing (long-term rental). Current ordinance prohibits this use, however; building permits for such structures cannot be approved without an ordinance change. RSTR: Nothing to regulate it. Can't be prohibited without specific ordinances. Can't control retroactively either.
5. ADU: Must be owner-occupied either the primary building or the ADU itself and prevent nuisance by the tenants. RSTR: Guest-occupied. May or may not have "house rules" associated with usage.

Discussion on ADU ordinance and recommendation to Town Council

Colleen asked for commission comments on the ADU draft ordinance. Matt said he was pleased with the current draft, but wanted reference to "separate entrance" on attached units to be clarified. Curtis said the wording on D2 does cover either guest house or ADU rental. Regarding primary/secondary, he wanted to start with primary residence only. Those with secondary residences can already rent out their residence if they want. Perry said he's happy the draft now and is ready to move it up to town council. Josey said she agreed with comments about primary ownership, but wants to add more teeth in the ordinance. For example, start with \$250 fine for failure to apply for a permit if you're renting for financial gain. Perry said "if we do a fine, I'd rather make it relative to the financial gain. A minimum or percent of income, whichever is greater. Some people look at fines as a necessary cost of business, and I want to avoid that here. Curtis will check with the town attorney on fines.

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Colleen agreed with what's been said. Curtis said it sounds like the condition you want to move forward is an enforcement mechanism. Colleen made the motion, Josey seconded. Matt: aye, Colleen, aye, Josey, aye, Perry aye. The ADU Ordinance is recommended to the Town Council for approval, with the condition that some enforcement mechanism be identified.

Community Planning Workshop Review and Next Steps

Josey summarized the workshop, which had 21 participants: First, we started with a list of 30 policies that would be applicable to Boulder. From that we created a checklist, then he split us into three groups. Each group examined each policy to determine whether we considered it an absolute or a relative requirement. If it was relative, each group assigned a weight to it of 1-5 (minimal to nearly required). [This provides the basis for reviewing a given project, with negative or positive numbers assigned to the perceived effect of that plan on each policy. You multiply your positive/negative assessment (-2 to +2) to the assigned weight of the requirement.] A negative score would be a fail for the project. In the second part of the workshop, we were given two separate projects. The first was an Open Space Development with a small cluster development as the project. Each group evaluated the proposed project against our 30-element checklist. In the end, we discovered most of the problems we'd identified could be fixed by the developer and resubmitted. The takehome message was that we spend a lot of time going in circles, repeating discussions. The checklist process is so efficient. Once you've gone through it, you've justified your answers, you've given solid information to the client, you have an administrative record you can explain to anyone, it would stand up in court.

The second project was an RV park. That take home was that site selection was key. Mr. Nellis explained that it makes your zoning parameters less static. It's more important to consider the site than the zone. That will probably be a hard learning for us, but is very interesting as we consider the General Plan.

Matt said he was surprised how much Nellis focused on the landscape and the geography, to keep the character of the town, it makes sense to use this to craft ordinances.

Colleen: It helped me realize we are unique, our properties are unique, and we don't want to stay with a cookie-cutter approach to development. It gave us a good way to think about how to keep our open spaces. I feel we have footing to stand on now.

Josey had previously developed a 6 month timeline, which can stay the same. This process is just a more efficient process. What we don't have are the SMART objectives. Once we have those, we'll still need to review the plan to see where we need changes. The first step will be to build the committee, preferably five people, with one other PC member, and two or three community members. Curtis suggested one TC member too. She felt it would be more efficient to have public comment periods during planning commission reports on their progress, but preferably not have to open the committee work meetings to the public. It's important to keep the process moving. Curtis asked to be invited to the meetings as a silent observer, available just to answer questions. Steve said he'd like to leave this up to the PC. The agreement was to use the community groups as a starting point, and making sure the group was as diverse and non-biased as possible. Matt will be the second Planning Commission member with Josey. She'll organize a committee before the next meeting.

Steve really likes the idea of the checklist, the ordinances, and the General Plan all being aligned and the continuity between the three things.

Discuss Alternate PC member Ordinance Change

Colleen asked Steve to comment on the Town's request. Steve said we recognized the need for an alternate. We had Curtis and the town attorney draft an ordinance to go through the process. We'd like to do this as quickly as we can. Schedule a public hearing for the next meeting.

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Matt: As I understand, the alternate shows up for the meeting, but doesn't vote unless it's necessary for the vote. Colleen read from the draft ordinance.

Discuss Residential Short-Term Rental (RSTR)

Colleen said that Curtis had sent a Wayne County ordinance as a sample, and the commission has been looking at the "whereas" intro outline of Perry's. In the Wayne County sample, she said she liked that business licenses are non-transferrable. When there's a change of ownership, it's important that the license doesn't go with them. Josey referred to a new state law that requires all short-term rentals obtain a business license through the municipality and a tax ID. A conditional use permit could be required by Boulder. Curtis clarified: You can be more stringent than the state, not less. But the County has no bearing on Boulder. (Their regs are parallel, not hierarchical.)

Colleen asked about paperwork. Curtis said the state is the taxing entity. The individual has to fill out forms for sales and use tax and TRT—that goes to the state. If Boulder decides to require a business license, that comes from the town. Peg said any business in town is supposed to have a business license. But the CUP is a land use, and may or may not be required in addition to the business license. Josey said the CUP is important because it's part of enforcement. The business license doesn't provide the controls we want. Matt said he likes having a crappy rough draft to start with, and we can start with the Wayne County sample. Can we put our "whereas" together on the Wayne County ordinance as a start. I'd like a good foundation to start honing.

Josey: I researched a circle of communities around us. Springdale: they don't allow RSTRs in residential neighborhoods, only in commercial zones. There's no separate ordinance, it's just in their table of uses called "transient housing." In Castle Valley: they define it as a commercial use, they have no commercial zone, so they don't allow them. Tropic: they just redid ordinances because of problems with loss of housing for residents. They do require RSTRs to be owner occupied. Moab: RSTRs are zoned everywhere. It's created a complete lack of housing for workforce, which has actually resulted in businesses having to close down. We already have that problem here. I definitely want to have that conversation here. I'd be interested to see how many people are already doing it or interested in. She also said Moab charges \$500/year for a permit and they have enforcement fines—good idea because there are costs associated with enforcing.

Colleen: I believe in documentation. You're asking people to come into our community from all over the world, and we want to have information on those people. Documentation somewhere so we know what's going on. We should put a limit on the number of them. There can be a maximum number related to our population or a given neighborhoods.

Perry: Regarding the number of rentals, it brings to mind our status as a resort town. There's a ratio of rental bedrooms to total bedrooms. We just need to be aware of that and track it so we're not be surprised. Matt suggested needing to spread them out across neighborhoods.

Josey questioned our classification as a resort town. The majority of people aren't working in tourism. Perry brought up the sizable revenue that comes from the taxes. Steve said more than a third of Boulder's budget (over \$66K) comes from resort tax. Perry: So let's be aware of that as we develop this.

Curtis said Springdale in the early 80s was nothing like it is now. Look at Boulder now and then what's coming. The decisions you make now are going to guide what is happening. The ordinances you pass now are to prepare for what's coming.

Perry: I'll go on record as not wanting to become Springdale. We should construct this ordinance with the intent primarily of giving residents extra income. Let's stay focused on that and build the ordinance so we will not become a Springdale. Colleen said she comes from Boulder City, NV, which still retains its small town image because of low-growth ordinances. We can control growth.

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Curtis: Lee Nellis said you can't control IF it grows, but you can control HOW it grows.

Curtis asked for review of desired elements:

- Limit number in town
- Limit by geography
- Number of days
- Not in a commercial zone (There was a long discussion of RSTR in a commercial zone. It's a commercial use, but it's a "residential" short-term rental, so should be excluded in commercial zone; long-term rental is another subject).
- Responsible party and/or owner occupied; someone to tell users about rules, available for maintenance problems. Responsible party should greet guests, lays out policies and rules. Not a hands off situation.
- Keep intent in mind: income for residents, not investor.
- Require CUPs to be able to track the number of them in town, and let's actually do that. Intent should be to annually or biannually review how many there are and if they're affecting the character of town.

Action: Curtis will put together a skeletal thing based on all this.

Discuss Upcoming Business for November 8 (which will start at 6pm)

Likely topics for the next regular meeting are:

- PC alternate public hearing
- Discuss draft of residential short-term rental ordinance
- Public comments on that discussion
- Update on the workgroups
- General public comments

Public comments:

Bill Geil: Because of the sharing economy, it's hard to write an ordinance that will cover how fast things are changing. People are doing a home sharing thing, similar to RSTRs, but no money changes hands. There are already people in town doing this. These things happen without no one knowing about it. Someone comes in and stays in house, and that person stays in their house.

Elaine Lott, Escalante: I'm on P and Z in Escalante. "Holiday homes" are rampant. I have a couple of these and I'm also a motel owner. When you do a commercial business, you have a lot of rules. When you build a home, you don't have these rules. These rentals are the same business as a motel, but a business owner has to spend much more money, whereas a homeowner—not so much. A hotel has to pay demand charge for the sewer, which is more than a home. Even though both in business, this isn't fair. I don't want to take away business from the motel/lodge owner. What if we go out of business when you have all those rentals? Josey said anyone renting to the public needs to be able to ensure their dwelling at least meets IABC...I'm on the side of the lodges and our businesses. Elaine said that Hurricane only has three RSTRs.

Josey said she'd like to hear from the public before too much work is spent on this.

Perry moved to adjourn, Josey seconded. Colleen adjourned the meeting at 8:50 p.m.

Peg Smith, Planning Commission Clerk

Date