

Meeting Minutes
Boulder Town
Planning Commission
November 8, 2018

Commissioners present: Matt Cochran, Colleen Thompson, Josey Muse, Perry Tancredi, and Elizabeth Julien. Secretary Peg Smith. Zoning Administrator Curtis Oberhansly.

Chairperson Perry Tancredi called the meeting to order at 6:02 p.m. Approving minutes: August 9 and September 13 minutes cannot be officially approved because the quorum that attended those meetings no longer exists. Peg Smith read a statement confirming these were true and accurate minutes of those meetings; Perry moved to approve them, Colleen seconded, and all approved. Perry moved to approve the October minutes, Matt seconded, and all approved.

Perry welcomed Elizabeth Julian as the newest member of Planning Commission.

Perry introduced the ordinance for alternate member. That person is allowed to vote if one person is missing from the body of five members. The commission discussed this ordinance last month. This meeting is for conducting the public hearing on the ordinance draft. Perry moved to close the public meeting and open the public meeting. Josey seconded; all approved.

Public Hearing on Draft Ordinance Change Allowing Alternate Planning Commission Member

Donna Owen had a question regarding appointment of commissioners. Perry answered the same as other regular planning commissioners—appointed by the mayor with advice and consent of the town council.

No other comments related to the proposed ordinance were made. Perry moved to close the hearing and reopen the regular meeting. Matt seconded, and all approved. Perry moved to recommend approval of the ordinance change to the town council, Josey seconded. Roll call vote: Elizabeth, aye; Matt, aye; Perry, aye; Colleen, aye; Josey, aye.

Zoning Administrator: Overview on Land Use Law

How do ordinances work? State law, Land Use Development and Management Act (LUDMA), is the guiding code for land use ordinances in the state. Town ordinances can be more restrictive than LUDMA, but not less. The County ordinances, except for some limited taxation ordinances, are separate and parallel to the municipalities', not hierarchically "above" the towns'.

Curtis read the Zoning Administrator role from the Boulder ordinance, Chapter 3, Section 305. He said, in the absence of paid, professional staff, the ZA is the catch-all staff person who can best point out alternatives, but not weigh in on decisions other than when the commission may be considering something in clear violation of case law.

Regarding the subject of residential short-term rental, this issue is a conflict between property rights and collective need: the right to generate income off your land versus the right of a neighborhood or town to define what it allows. You cannot prohibit someone from renting their property, but can you prohibit them from renting it out for a weekend? What is the value of preserving neighborhoods? What constitutes a neighborhood? How does density play out--- is a neighborhood equally disrupted with a rental on a 20-acre lot versus a quarter-acre lot? You're

Boulder Town Planning Commission, Meeting Minutes

always talking about balancing collective good against private rights. Recent Utah legislation came very close to saying a town can't prohibit short term rentals, but instead they ended up just saying the town can't prohibit an owner advertising on Air BnB. So where does the public want to go with this?

Perry wanted to open up an informal discussion on what the public wants. This is not yet a formal public hearing, just a gathering of information. When you think about this, think about what a residential short-term rental look like in Boulder so that Boulder stays Boulder. Think of the town as you see it and think of RSTR and how it fits in. Secondly, the Planning Commission just passed the Accessory Dwelling Unit ordinance on to the Town Council. This discussion is not about ADUs. ADUs can exist without RSTRs; RSTRs can exist without ADUs. They're interrelated, but not the same thing. Tonight, we're talking about RSTRs.

Perry read the "whereas clauses" stating general intent of the current thinking. In summary:

- 1) That Boulder would like to allow RSTRs;
- 2) as long as Boulder's character can be preserved;
- 3) that residents should be able to benefit from income associated with RSTRs;
- 4) they should be restricted to non-commercial zones;
- 5) and managed to mitigate impact on existing local businesses;
- 6) recognizing the need for low cost residential and seasonal rentals and not wanting to negatively impact those;
- 7) need to monitor impact, establish regular business licensing, and adjust as needed; and
- 8) restrict to Boulder residents to avoid problems with absentee landlords.

Josey said Boulder is a diverse community and it's expected people will have different opinions. Her concerns are with neighborhood disruption and safety. Tourism has changed the character of the area. "I moved here for seclusion, peace and quiet." She's also concerned about affordable long-term rentals for the town. "If we lock that up to make the quick dollar, we're shooting ourselves in the foot because now there's no where for people who work here to live. I'd rather use traditional means of income—home businesses and other creative ways--- rather than going to the new fad." She'll read the submitted comments at the end of the discussion.

Colleen said this is just the beginning. She's been reading articles about RSTRs from all over. She isn't opposed to them being here, but sees the importance of creating a way to find out what people really want. How can we use other communities' experiences to do it right for us.

Matt mainly wants to hear everyone's comments. Sometimes what may be ideal for me may not be ideal if everyone is surrounded by it.

Elizabeth said she was also here to listen. How to move forward based on everyone's opinions and using what was learned during last winter's planning discussions.

Perry move to open to comment, two inutes per person. Josey seconded, all approved.

Informal Public Comment on RSTRs

Walt Gove: As a sociologist, I've looked at cities grow, seen technological change.. it's hard to know where we're going. Most people here want Boulder to be as Boulder is. I wouldn't want to people to think of Boulder as a good RSTR place to go, I don't want that. To maintain a vibrant community we need access for low income persons, and being very attentive to the state of flux we're in.

Tony Jacobson: I'm in favor of RSTRs with conditions. Maybe charge fees that go into a fund or account that people could apply for as a residency or for building a home. I think Boulder will always change. Let's get used to it and try to accommodate how things go.

Randy Catmull: The intent is important to understand. Is it for employee housing? Perry clarified that RSTR is not to do with employee housing. RSTR is defined as rentals for less than 30 days, so it generally wouldn't apply to employees. Jimmy Catmull said once you build a house, but can't live it right away. If he wants to rent it long term or short term, either way, way.

Boulder Town Planning Commission, Meeting Minutes

Perry said nothing we're talking about would change his ability to rent it out long-term. What we're talking tonight is under 30 days.

Donna Owen had a comment from Shawn Owen: It's important to voice concern about bringing economic value to current property owners here, not in Torrey or Escalante. Donna's own comment was, "Why are you thinking of not allowing in commercial areas? Perry said you already have the ability in a commercial area to have a short-term rental (motel). She said in most of Boulder we have a situation where housing separated. She would like to incorporate incentives to have long-term rentals.

Jennifer Geerlings: I like the idea of waiting a little bit and getting more information. For most people moving here, whether one acre or five acres, there's an expectation of being in a residential area, and not with a motel next door. We've stayed in RSTRs and loved it, but we recognize the bad feelings it can create between neighbors.

Tom Hoyt: I reinforce Jennifer's comment. I've been involved in trying to hire employees in both Kanab and Escalante because they just can't find housing. It has definitely restricted our ability to hire people. Best Friends brings in 100s of people using daily rentals. I don't think you should be saying no on either side. A moderate approach makes sense.

Troy Julian: Coming up with an income that is actually profitable for this area, using the land, could be really helpful in maintaining a culture around Boulder that we want to continue. There's a void that could be filled if we could come up with something that is really profitable. Something new that actually changes things could really affect the economy here. Second: Hypothetical : if 90% of the community believed cattle ranching shouldn't be available, should we be able to make an ordinance getting rid of it, just because public opinion says that. I'd apply that same thought to RSTR

Gladys: Just returning from Travel Council meeting in SLC: We learned this is the new way... a lot of people only want this type of rental... I'm concerned about property rights and telling someone what they can do unless it really negatively affects me. ...RSTRs do require licensing. The owners will pay extra taxes. Also, many insurance companies won't insure a house with this type of usage, so there may be extra hurdles there. Someone said we can wait. Well, you really can't wait. You either have to say no, or else you're saying yes. We have no ordinance right now. And is there a difference in new neighbors coming in one day a week versus someone you don't like as a neighbor being there longer?

Dan Pence asked about the process after tonight. Perry said the Planning Commission drafts an ordinance, which then requires a public hearing, and the recommendation on that moves to the Town Council or goes back to the drawing board. The TC has to have its own public hearing and vote. Dan said I was on the housing committee last winter and we spent maybe three hours talking about RSTRs and couldn't get very far. There's a lot of info. You have the responsibility to look at that info... this is a huge issue to this community and will have a lot of impact. It means we need to do some work before you can write an ordinance. Maybe post some of the articles you've already found. This is a big deal. There's a responsibility on all of us. Curtis will collect the email addresses if people signed up to send out this info. Perry said if we can agree or disagree on an intent, such as restricting the number of RSTRs, and it's down on paper, we can talk about it. That's our approach.

Tomas Robison: I heard property owners talking about this meeting tonight, and at least half said they aren't going because they don't feel safe going. There are a lot of strong feelings, and not being able to come to a meeting and voice those concerns is a big deal. How do we do this with compassion and respect our neighbors, respect the process. We're still in the info gathering process to present to the community. We need far-reaching education, and we all need to step up. Then we'll have a good framework for the ordinance.

Boulder Town Planning Commission, Meeting Minutes

Jennifer: When I said wait, I mean to not allow them until we decide. Perry said case law has determined you can't do that.

Stephanie Love: I've used RSTRs a lot at first it was people subletting their primary residence versus... Say 4th of July, if you're only allowing a certain number of RSTRs in town, would I be taking someone's space if I only want to do it one weekend a year? Also, there's renting just a room in your house and not the whole house. And also, would you separately regulate a business license if you want to take guests out on a hike or give a cooking class, like they're advertising as special services now? It's a big can of worms. Maybe consider an allowance for people to do a certain number of days per year without requiring a license? Perry said the ordinance would be intended to prevent people from building houses intended only as RSTRs. Regarding special services, this would be no different from people running a hiking business out of their place. That would be a separate license.

Laurel Holding: I live in Boulder King Ranch Estates, I bought a doublewide in 2015 and last year and this year experimented with Air BnB. When I thought about trying it out, I wondered about established commercial places, like Poles Place and others, and their requirements. So I did my own research into transient room tax (TRT) even though at that time it wasn't a requirement, and decided to pay that myself. In the meantime, Air BnB started collecting that tax. I also wondered if I might be taking away from potential employee housing. I'm enjoying not having roommates, so no, I wouldn't do that anyway. So I went ahead. Made about \$8K last year pre-tax and about same this year. I felt it was important to express support of what Josey said in that letter. Boulder did fine before RSTR. I don't find the income thing terribly compelling, although a few days or weeks out of the year a little side income can be helpful. But the Air BnB empire and its gaming the system isn't what we want here. I'm in favor of Jennifer's idea if we could delay action, or otherwise the most restrictive ordinance we can legally come up with.

Curtis: Regarding a license, it's absolutely mandatory. If you rented out a room for one night without a license, you're in violation of state law and the penalties are stiff. Sales tax also is required. The resort tax is big revenue item for our town. Regarding wait and see attitude, you can do that, but anyone who wants to do an RSTR is entitled to do it right now. If the town passes an ordinance later restricting them, all the units now doing it are "legal, noncomplying" and they can continue doing it. (You can make them pay any new fees or taxes but you can't stop their activity.) You can't go back retroactively to stop those already operating. Randy's comment was that an owner can only make x amount on a long-term rental. It's not fair when I can make more renting in another way.

Tomas: On the idea of gathering information, I view housing like a crop. RSTR is like tobacco or cotton, it really depletes the soil--- so maybe yes, for one year, needing a quick fix of cash. But other years it's long-term rentals or grandma lives there. A totally empty house isn't great either. Let's limit things that really hurt us.

Josey read the written comments, attached for the record. Rachel Levinson, Autumn Peterson, Bill and Judith Geil, Scotty Mitchell, Mike Nelson. Josey concluded, saying "we're not even close."

Perry: Probably next month we'll have a draft to start discussing. If we pass an ordinance, we'll probably see an increase of such rentals. If we do nothing, the number of rentals will continue to increase, and if aren't what we want, no ordinance we pass later will take them away. So one option we have is to passing an extremely restrictive ordinance that is still legal and that we can monitor. He asked Curtis to begin skeletonizing a draft, showing the various options where feasible. Perry said we can go with what the Planning Commission already discussed a few months ago. Curtis will create a draft to send around, including some safety aspects.

Boulder Town Planning Commission, Meeting Minutes

Update on General Plan Work Group

Josey said the members of the work group--four members of public, two from Planning Commission--- are Daniel Kennedy, Tina Karlsson, Mark Nelson, Josh Ellis, and alternate Cookie Schaus, plus herself and Matt Cochran as Planning Commission members. If that's ok, she'll move ahead with meetings. They'll start with a reading list and schedule the meetings.

Discuss 2019 Meeting Schedule

Although everyone was fine with keeping the current schedule, there is the problem of unnecessary delay of action, potentially seven weeks, caused by the Planning Commission meeting the week after Town Council. Following discussion, Perry moved to suggest coordinating with the TC so that Planning Commission meets the week before the TC, Matt seconded, and all approved.

Agenda:

- Skeleton for RSTR
- Update on Josey's work group action
- Finalize 2019 Meeting Schedule

Perry moved to adjourn, Josey seconded. Colleen adjourned the meeting at 8:42 p.m.

Peg Smith, Planning Commission Clerk

Date