

## Meeting Minutes

### Boulder Town

## *Planning Commission*

# December 13, 2018

Commissioners present: Colleen Thompson, Josey Muse, Perry Tancredi, and Elizabeth Julian. Matt Cochran was sick. Town Liaison Peter Benson. Secretary Peg Smith. Zoning Administrator Curtis Oberhansly. Public present: Ray Nelson and Denise Pennington, Troy Julian, Michala Alldredge, Walt Gove.

Chairperson Perry Tancredi called the meeting to order at 6:01. Josey noted some typos to fix in the November minutes. Pending those corrections, Perry moved to approve, Josie seconded, and all approved.

### ***Zoning Administrator: Fact-Finding on Land Use Decision Process***

Curtis thought a framework would be useful for considering the various options in creating a new land-use ordinance such as the one for Residential Short-Term Rentals so that it accomplishes what's appropriate for Boulder while complying with state code and case law. Ordinances are never one-size-fits-all.

Utah law says property rights have a presumption. Municipal bodies are allowed to limit those rights, but you have to have a reason to do it. If I'm going to limit someone's right (to rent out all or part of their house), what's the problem in Boulder that we're trying to fix? To establish that, you have to use facts or "substantial evidence." This is not your gut feeling, but the "who, what, when," factual basis. By the public hearing stage, it's good to hear specific things: If you don't like it, why don't you like it? What happened? What was the disruption? Document and define it. Neighborhoods that are really spread out have a different character from neighborhoods that are more consolidated. Both have different potential for disruption. Use specific types of incidents and neighbors' response to it and how that applies to Boulder. As you look to put things on the record, use those facts and the specifics you hear in public hearing to justify your decision so it's factual.

He cited some of the complaints and comments received at previous public discussions as examples of narrowing the focus:

'Character of town' What is the character of our town, and would RSTRs change that character? Would this change the character of the entire town, or just in spots? Are the stories true about people driving on through and not even stopping in Boulder? There are hotel and highway studies that could provide the facts. Ask people at the public hearing how they are impacted. How they feel is important, but comments should still be fact-based as much as possible.

Impact on long-term residential rental market. Instead of assuming Boulder could turn out like Aspen, look for evidence that employee housing rental is being used instead as an RSTR. Look at what's available and how people are using it. These are the types of things you look at and weigh.

Regulatory fairness and the difference in standards a hotel is held to versus RSTRs. Consider a fire in a four-story hotel versus one in a residence where there's a front door, a back door, and various windows to exit through. There's a reason for different building standards. You can decide how much weight to give this argument.

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Main thing: Develop the record of facts, as applied to Boulder, to substantiate your decisions.

### **Review Skeleton Draft of Residential Short-Term Rental Ordinance**

Perry started the discussion with a review of the “whereas” clauses of the draft, which are intended to identify the intentions for the ordinance:

1. RSTRs would be allowed in Boulder. 2) Done in a way to preserve the character of Boulder. 3) Allow residents to benefit from the income potential. 4) Not allow them in commercial zones. 4) Mitigate impacts to local business. 5) Mitigate impacts on long-term residential rentals. 6) Monitor the businesses. 7) Limit availability of permits to Boulder residents.

Perry: So what is the problem we’re wanting to solve? In some ways this is addressing problems we don’t have yet. He said one of the reasons we’re doing this that Boulder residents are seeing more RSTRs in their neighborhoods and it’s making them uncomfortable. There’s resistance to having people we don’t know in our neighborhoods. There’s also the feeling of wanting to do what they want to do with their property. The big problem I think we’re trying to solve is to guide the way the town is changing. I feel we’re primarily ag town with tourism, a quiet use town, and the tourism we have is built on that. I don’t think people want this to be a tourism town in the way others are, so we need to allow tourism in a way that maintains our character as ag town. We’re talking about this and the ADUs to address housing in Boulder and support people who work here. While it’s not our job to provide housing for anyone, the people who work here should be able to afford to live here. We have seasonal employees and also people who want to live here long-term.

Colleen: We hear about the issues with RSTRs, but not the good points. It’s hard to take big city info and put it into Boulder. Maybe if we decided we wanted to limit the number of them or put them only in certain areas we should be allowed to do that. We should start documenting things from day 1. Perry agreed but recognized challenges of people feeling deprived if they are “selected.” Maybe we can limit a person’s CUP to a certain number of years, and then that usage rolls over to someone in line who wants to do an RSTR.

Josey: Agreed with problem statement, but also we currently have unregulated commercial businesses in residential areas, and we need to deal with. Perry agreed. Not passing an ordinance is not an option. Colleen wanted the information that comes out of documenting the businesses. She also mentioned the Sandy City legal case that ended up allowing the town to limit RSTRs to certain areas, based on neighborhood disruption and spacing. Colleen said our long term commitment to maintaining open space should be a consideration in this.

Elizabeth brought up comments from the previous public meeting: that Walt was concerned about long-term impact; Gladys had mentioned hearing this is considered the new way of tourism and what people want. We need to keep going back to what we’ve heard from people. Perry added Mary Jane’s comment on supplementing her income by caretaking; Laurel making \$8K last year. Colleen said we won’t get away from it. Air BnB is developing its own houses now because of the problem across the country of people traveling and they want to make it easier for people rent out parts of their property. Perry mentioned another comment from Randy Catmull.. that is son is building a house that he can’t move into immediately. However, he could make money now renting it as an RSTR. While that seems reasonable, it also opens the door to what we’re trying to avoid, which is having people who don’t live here buy property and build houses purely for the RSTR income. That doesn’t help our housing situation and is something we are trying to avoid. Elizabeth read Matt’s comment: That RSTRs are owner-occupied six months of the year and discourage outside profiteers who don’t care about Boulder community.

Curtis said that is one thing other towns have tried to address and it seems to have a good rational basis. Perry would like to make sure the first people with RSTRs are Boulder residents.

Perry started the focus on the draft:

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1. Curtis will redraft the “whereas” clauses to stipulate RSTRs.
2. Section 1, paraphrased as is: This amend Chap 10, section 604. Definition of RSTR. (Term of rental less than 30 days in a single family lot.) Section B, allowed zones: HDR, LDR, MDR and GMU. Section C: CUP required, valid for one year, allowed only for lot occupied by owner minimum x days per year. Owner is responsibility for nuisance. Owner or local property manager available 24 hrs/day on call and able to respond with one hour if needed; meet guest in person with keys and introduce to the visibly posted rules and instructions that include description of property boundaries and where they can hike, have dogs; dump trash; park.

### Discussion of draft items:

- Stipulate 300 feet from front door to property line needs consent of adjacent landowner? This could be attached to the business permit application. This may help solve privacy, noise, and character of neighborhood problems.
- Section C, conditional use, requirements of the property manager. Also specify a quiet time in the rules. 10pm to 7am?
- Section C, conditional use is the place to restrict the number of RSTRs or number of renewals of the permit. One RSTR per owner (whether corporation, family trust, individual, etc.)
- #1: Perry would like RSTR use is limited to half year plus one day; rest of the time is owner-occupied. Despite difficulty of monitoring, he'd like to include the restriction.
- #2: Owner responsible for nuisance created by guest: owner loses CUP. There is a process already for the town to follow up on a Class C misdemeanor, which is a warning letter, a \$250 fine, then jail.
- #3: Local owner or designee meets renter in person.
  - A: Respond by phone within one hour; require in person response within three hours if needed.
  - B: Acquaint guests with list of requirements. Instructions include parking requirement (additional parking for increment of every four guests). Add quiet time to written instructions
- #4: Limit to one RSTR per owner. OK as is
- #5: proof of ownership and occupancy at time of application. OK as is.
- #6: sales tax: The state tax commission considers RSTRs a sale of goods and services and they require sales tax number. The town requires the town business license and a CUP from planning commission. When you come in for CUP, show you're current on your taxes and prove by your sales tax records. State maximum number of days to rent in this section. Require access to same tax info submitted to the state (within CUP).
  - D: standards. Additional parking for every additional four guests. Add locations of fire extinguishers in the list of instructions.
  - Approved sanitation (water and septic)—standard
  - E: False info... ok as is.

Undecided items: Require neighbor consent if within 300 feet? Restrict days you can rent? Restrict number of units in town—yes.

Curtis: try to address real problems; Limiting days to rent crimps owner's rights. You can always go back if you find another problem.

### Public comment:

Ray Nelson: Have guest sign a form that indicates acknowledgement of seeing rules. Colleen suggested an info packet. The CUP application should include the paperwork you include in your guest rules packet.

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Peter: Tourist jobs are lousy unless you're the owner of the business. Don't think you've covered someone doing RSTR in a bedroom of their house. Curtis said as long as you're only allowing one per customer and a restricted rental period, it doesn't matter which room/building is being rented.

Requiring a fire code inspection was brought up. Peter Benson was going to talk to the county about this as a possibility.

### ***Update on General Plan Work Committee***

Josey said the first meeting happened this week. The group will use google drive to share documents. She described using a spreadsheet that will break down the applicable GP sections, and include a column of all comments, the committee's comments. A new Word document will be prepared based on that output. She will be updating the commission as the committee proceeds through their chapter action items. Their next meeting is Jan 7. She's looking at the process taking another five months at most, so hopefully, the group will have something available for the public to review in April.

The town council wanted a council member on the committee. That will be Peter.

### ***Vote on 2019 Regular Meeting Schedule***

The Planning Commission decided to keep their meetings the same, the second Thursday of the month, with the same 6 pm standard time start/7 pm Daylight Savings start.

### ***Discuss Upcoming Business***

Agenda:

- Revised version of RSTR? Continue discussion of limiting RSTRs in different areas of town.
- Update on Josey's work group action
- Chair elections
- Planning Commission alternate?
- Public comments

Perry moved to adjourn, Colleen seconded. Perry adjourned the meeting at 7:50p.m.

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Peg Smith, Planning Commission Clerk

Date