

Boulder Town

Planning Commission

Meeting Minutes

April 11, 2019

Commission quorum was present: Josey Muse (acting chair), Matt Cochran, Elizabeth Julian, Marian Johnson (alternate). Perry joined by phone at 7. Colleen Thompson was absent. Also attending: Secretary Peg Smith; Zoning Administrator Curtis Oberhansly, Town Council Liaison Peter Benson. Members of the public: Jacque Koenig, Pete and Cookie Schaus, Tom and Caroline Hoyt, Tina Karlsson, Mary Bedingfieldsmith, Troy Julian, Geneen Haugen, Pam Furches, Kate McCarty, Tony Jacobsen, Walt Gove, Mary Jane Coombs, Steve Johnson,

Josey called the meeting to order at 6:00 p.m. After reviewing the agenda, she asked for a motion to approve March minutes. Matt so moved, Elizabeth seconded. Josey, Matt, and Elizabeth approved.

Initial Public Comments

There were no public comments.

Dark Skies Presentation

Mary Bedingfieldsmith, from Torrey, helped establish Torrey as an Internationally certified Dark Sky City. She emphasized the importance of obtaining local support from as many residents as possible. Then contact the International Dark Skies Association director, John Berentein. You need a nonprofit corporation to handle the funds. You need to establish a dark sky ordinance. "Dark skies" doesn't mean you don't have lights. It means you have the right amount of light at the right time. What is the best temperature of light you're installing/asking people to install, measured in Kelvin: the lower the temperature, the yellower/warmer the light looks. K = 3000K is highest. Lumens is the amount of light that comes out of bulb. There's no limit on an individual light, but the IDA specifies an aggregate limit for a piece of property. So shielding, lumens, and temperature are things you can specific.

People worry about safety. Mary showed an example of security light glare on a building actually hiding a person coming through a gate. Downward-directed light improves the ability of a human to see into dimly lit areas. Garkane will now install downward directed street lights that direct lighting at the street and sidewalks, not everywhere else. She cautioned paying attention to the "type" on the light fixtures. Torrey wanted the Type 2 cobra-head fixture which casts a long, narrow band of light along the street.

Next, the town needs to inventory the lights the town itself owns and make a plan to replace lights. Many towns pay a monthly tariff to Garkane for their lighting. The monthly tariff offers the town a way to cut costs of lighting by more than half. The same can be arranged by property owners. You can ask Garkane to switch to a monthly tariff. Torrey talked to property owners about the cost comparison of switching to tariff, then followed up to make sure they got it.

Cost: Torrey used crowd funding through (IOB) In Our Backyard, and raised \$22K in six months, that they could use to cover street lights, their education plan, even a walkway planned with partnership with the school. Handling the fund transfer is why a 501(c)(3) is needed.

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Garkane charges \$145 for the labor of installing a light. The fixture cost itself is between \$150-\$200/fixture, so a total of about \$350 for one light.

Application for designation: You don't have to replace all your lights before you apply, you just have to show the plan. Steve said there are 24-25 total street lights in town, but only two are owned by the town. Not all of the 25 lights are lit at night. Mary said when Garkane installs a light, it's supposed to last 25 years. They replace bulbs as necessary.

She suggested being present when Garkane installs the fixture. Depending on where the mast is on the pole, the cobrahead will be oriented at the wrong angle. You want the cobrahead parallel to ground and at the right orientation to the street.

Dark Sky application—requirements change each year; see darksky.org to see other towns' applications. You have to have education events that you should track by date, article in paper, photographs, etc. Torrey provides the darksky info packet when they come to the town for building or business permits. For the application, the town needs 10 examples of light installations that have happened once the ordinance is in place. If you know someone's building a house, ask to get photos, before/after installations, etc. Letters of support also needed. There's a timeline for replacing streetlights. There are two light monitoring events each year. In Torrey's case, nonprofit Entrada purchased the meters. You hold them up, take the reading, put in an Excel spreadsheet. You want to show you're trending toward darker and darker night skies. The meter number you're shooting for is in the 20s.

Yes, you can have motion sensor lights, even though they're usually not shielded. You can set them for the number of minutes they stay illuminated after triggering.

The town may work through many drafts over the five-year period it could take. Once the application is deemed ready to submit, the dark sky rep submits it for you, accepted on a quarterly basis. Once the application has been submitted, it will be approved, as you've been working it all along. The town receives a plaque. The IDA helps with press releases and the rollout. An annual report is required after designation.

She said, "Here we're in one of the only places in the country where we could possibly have a Dark Sky Reserve. It's a heritage worth preserving."

Staff report: Zoning Administrator (Curtis Oberhansly)

Curtis had two new items. He said the Town Council had directed the Planning Commission to start the process for increased economic opportunity under an expanded definition of zoning and/or defined uses to accommodate small businesses/home-based businesses. Initially, this requires discussion across the range of possibilities; no specific application or documentation exists yet. For example, the Sugarloaf Valley Ranch has a state-of-the-art woodworking shop---current ordinances don't allow them to use those commercially. A welding shop wouldn't be legal now. To keep young families here, the town shouldn't block economic opportunity. The working title for this discussion would be Economic Opportunity Initiative.

The second discussion was a proposed revision to the Subdivision Ordinance. The current SD ordinance quotes state code saying the culinary water authority (which is Southwest Public Health here) has to "determine feasibility of water for a subdivision." That requirement is generally satisfied with a letter from SWPH saying, "yes, it's feasible." However, the town's problem is to make sure it's not approving subdivisions of dry lots. Curtis described a sample scenario in which a developer doesn't complete the planned infrastructure in an approved subdivision, but lots have been sold. Twenty years later, a family member inherits one of these unfinished lots, but access to water, hookups or well, is no longer available. He said the town's damages may be to buy back the lot at future-current prices. It's a big risk the town doesn't need to take. Part A of the revision corrects this loophole.

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Page 2 regards bonding for infrastructure. Getting a surety bonds is a complicated process. Currently, our ordinance allows a developer to get preliminary plat approval and start selling lots. If the developer isn't able to complete the infrastructure due to loss of funds, even though the town bonded correctly, the town would still have to sue on the bond, and then pay to build the missing infrastructure. There's not adequate staff in Boulder to handle all this. The solution is to change the procedure to approve the preliminary plat with conditions, which can be stated on the plat or on a development agreement as an Exhibit A to the plat. The developer has to buy Boulder Farmstead connections or obtain the appropriate number of acre-feet of proven underground water rights from the state for the entire development. The developer would then either change the point of diversion or dedicate an allotment to the lot owners. All the details are contained within the development agreement. The final plat isn't signed off nor can lots be sold until this happens. That eliminates the town's liability. Curtis said the language in the current draft still needs some minor language tweaking, but is sufficiently complete for public hearing next month. Josey acknowledged Perry Tancredi joining on the phone during that discussion, and also Marian Johnson who was seated during the dark sky presentation. The SD ordinance revision will be scheduled for public hearing at the May meeting.

Public Hearing: Residential Short-Term Rental Draft Ordinance

Josey asked the commission for any comments on the draft ordinance before moving to public hearing. Her comment regarded a date reference on Page 2, items 3.3. Curtis said the 12 months referred to would be relative to the date the Mayor signs the ordinance.

Elizabeth moved to close the regular meeting and open the public hearing. Matt seconded. All approved.

Public Hearing comments:

Tina Karlsson: [Tina read a letter from Scotty Mitchell, who was absent]: The pros outweigh the cons of Boulder residents not being limited in any way. I feel you're looking for ways to restrict and not looking for how to enable residents. It helps those of us make ends meet. Places are needed for tourists. Their money stays in town. I couldn't make my own ends meet in older age without RSTR. I resent someone restricting my ability to use my own house. Long-term rental will not pay the bills nor do I want a roommate. Short term rental is only way. Providing a homelike experience is a plus to travelers. The Town is a tourist destination. Subdivisions create more traffic. Strangers already wander down my road. There's an overreaction to real damage RSTRs have caused in other areas. How many people would actually rent out part of their primary residence? Right now we in town are limited while county people can do it. It's the homeowners choice. It's a win-win to homeowner and businesses.

Tina's followup: Property prices are horrible here, especially trying to pay for pay for property without a good job. To be a diverse community, there needs to be a way to help people

Steve Cox: page 3? Regarding page 3, on limitations of RSTRs by area, how many would that actually be? How are you grandfathering in existing ones? I'm unclear on numbers we're dealing with now. Going back to the ADU ordinance, #7 in ADU says the building may not be used as a RSTR. Are we changing that now? I thought it was clear they're not to be used for RSTR. Where is that language?

Walt Gove: I'm a sociologist, working with different towns, and I've seen towns this size that have moved into being air bnb places. I encourage you to keep this a viable, functioning community and applaud your efforts.

Cookie Schaus: I commend the Planning Commission for their months' long work. I agree with 99 percent of it. I have sympathy for people who need to rent their property for air bnbs, but I appreciate the limitations you've put on it. It's reasonable. For people who have enough money to own their home and pay taxes, if they budget carefully and avoid luxury expenses, they

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generally can stay there without resorting to short-term rental for income. But I'm very much for long term rental.

Steve Johnson: The proposal seems very restrictive, which I understand. Three questions: 1. Would this withstand a legal challenge? 2. For someone who is not a resident, but has been operating a RSTR, how does this affect them? 3. If someone has a second structure on their property that's not their primary residence, how would this proposal affect the short-term rental of the home they do not occupy as a primary residence?

With no more comments, Matt moved to close public hearing and open the regular meeting. Elizabeth seconded, and all approved.

Regular Meeting: Discuss RSTR Draft Ordinance and Vote

Matt: We've been working on this a long time. We've struck a good balance between allowing economic opportunity and protecting neighborhoods. We've talked to a lot of people. I'm pretty happy as is. It does need clarity on the questions Steve raises.

Perry: Language was put [in the ADU ordinance] with the assumption that RSTRs would be allowed at a later date. We were trying to avoid a big loophole between the passage of the ADU ordinance, which had to come first, and the RSTR ordinance that would follow sometime in the future. The intent was to make ADUs more available for increased income for residents.

Curtis: To clarify, para 5b2i: "Where two dwellings exist, the owner may be the primary resident or the ADU as an RSTR and shall provide ... of how owner occupancy and RSTR occupancy will be apportioned; If no event shall two dwellings on a lot be occupied by RSTR guests simultaneously. Yes, you can use either structure as your primary resident, "nothingstanding the provision (of ordinance 2018-4)?"

Matt: Last meeting we talked about a percentage of an area population rather than a specific number of RSTRs. Perry said the options are to include all existing RSTRs, exclude them all, or allow those that can conform to current requirements. Josey read Section 3.3.—that language still doesn't address nonconforming existing RSTRs. Curtis: if they're existing and will conform with the new requirements, you don't count them in the quota. The draft now says that. Perry: big gap is a non-resident that currently operates a legal noncomplying RSTR. If they were a resident, complying, and currently running a RSTR, they would count toward the quota. Josey: if it's their primary residence, we include them in the quota. If they can comply with everything except the primary residence part, we would not include them in the quota. And if someone qualifies as a BnB or guest ranch, it is not an RSTR and would not be part of the quota.

Curtis: Need more language on the quota relative to resident/non-resident. Of people who've paid sales tax during the past 12 months, there may not be two in the whole town, but don't know if they're residents or not residents. We'll clear that up.

Matt, Curtis: Everything's changing so fast, but we're doing the best we can to comply with the defining cases in Utah Court of Appeals.

Josey said another required clarification is the situation of a primary residence is on one lot and you own an adjacent lot. Currently: one ADU per lot and (Perry) we want them to be a resident of Boulder. You're allowed one unit to rent out. We don't care where it is—is that our intent? Elizabeth mentioned the situation of living on one lot and a parent living on the adjacent lot. When that parent leaves, what are they able to do with that house? (assuming there are no additional dwellings on either lot.) Josey wanted language that would support that usage because people in Boulder may inherit adjacent lots. Conclusion: Boulder as primary residence would be reflected by Garfield County records, your residence may not be in the dwelling you're renting out. A resident occupies a dwelling 182 days per year, occupy "a" lot not "the" lot. The owner is entitled only to one RSTR, one CUP total.

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Regarding quota percents, 3a: Elizabeth wanted to know actual numbers of population within the three geographic areas. What actually is 15 percent of each? Curtis agreed that anytime you can do fact finding, you've buttressed yourself against a challenge: How did you arrive at the 15 percent? The Planning Commission can survey each sector you've delineated by counting the residences. Planning Commission can look at primary residences by using tax rolls and plat maps.

Matt said the original intent was to divide Boulder into three general areas with four RSTRs in each area. The percentage is trying to hit close to that.

On date reference, use the date from where the ordinance is signed.

Josey: Within the month, Peg will get plat maps, Perry volunteered to do the spreadsheet of resident owners.

Matt made a motion to forward their approval of the RSTR ordinance to the Town Council, conditional upon the residence survey data being available and with the changes as reflected in the minutes. Elizabeth seconded the motion. All commissioner voted "aye."

Steve asked Peg to contact Judi for scheduling the Council's public hearing next month.

Review General Plan updates and Schedule public hearing

Josey said last month she sent out the draft and supporting spreadsheet. No one had any comments on the content.

She thanked the members of the revision committee: Matt Cochrane, Mark Nelson, Tina Karlsson, Josh Ellis, Daniel Kennedy, and Peter Benson as liaison. Matt moved to schedule the General Plan update for a public hearing at the May meeting; Elizabeth seconded the motion. Roll call vote, all approved.

Steve said consultants have suggested adding action items to the General Plan. He said he doesn't agree with adding them to the Plan, but agreed they need to exist as a list. He said there are things on the list the Town Council needs to move on. Josey said she would use the spreadsheet to create an action list, to be available by next Friday.

Final public comments

Tom Hoyt: Thank you for all the work you've done. This is a big step forward.

No other comments.

Upcoming business for May 9

- Economic Opportunity draft
- Public hearing on Sub division Ordinance revisions
- Public hearing on General Plan updates
- Public comments

Curtis suggested the town starting spending some of the donated money on Garkane fixtures. Steve said he'd like to see a nonprofit do a lot of the footwork. A local champion of the project is needed. He's not sure it needs to come from the town council. Matt will present the idea to BCA.

Josey moved to adjourn; Matt seconded. All approved. Josey adjourned the meeting at 8:07p.m.

Peg Smith, Planning Commission Clerk

Date