

Boulder Town
Planning Commission
Meeting Minutes
October 10, 2019

Commission quorum was present: Colleen Thompson, chair; Matt Cochran, Josey Muse, Elizabeth Julian, and alternate Marian Johnson. Also attending: Secretary Peg Smith; Town Council Liaison, Peter Benson; Zoning Administrator Curtis Oberhansly. Members of the public: Cookie Schaus, Steve Cox, Hans Ringger and Elin Isakson.

Colleen called the meeting to order at 7:04 p.m. Colleen moved to approve the September minutes, Matt seconded. All approved.

Initial Public comments

Elizabeth read BJ Miller's letter on yurts and alternative building materials as dwellings. (See attached.)

No more public comments were heard.

Zoning Administrator Report

Curtis explained the three points in BJ's email that he had responded to. He alluded to Town Resolution 2006 which references section 104 of International Building Code: that alternative materials, designs, and methods can be allowed so long as they meet code for quality, strength, effectiveness, fire resistance, durability, safety, and energy code. Those are the things required in state code anyway. It didn't change what building inspector does in inspecting a home. It's the opinion of building inspector now is that this yurt doesn't meet all these criteria. Matt asked about yurts in town now that Jared Woolsey apparently inspected. Curtis didn't want to get into guessing what happened, just that now, five years later, Jared's position is that he can't inspect a yurt that doesn't meet code. Curtis said, "You could build a yurt that will pass inspection. But a pre-fab, off-the-shelf yurt isn't much more than a beefed up, thickened tent, based on load, flammability, etc."

Matt disagreed: He said Colorado yurt advertises they are IBC-compliant. What's important is that a lot of people are living that way, but it's also an aesthetic way of affordable housing. They're sound structures. They're designed for desert, high-steppe, high wind, snow--- they can handle that and can be insulated and meet code. It's a mistake for the town to consider them as merely tents. In my view, I think it's something the town should try to make them legal. Curtis said that can happen now, they just have to meet a certain standard. Take the company's design plans to Jared and have Jared evaluate that for compliance.

Curtis said the other point is for Town Council: The Planning Commission recommends new legislation or grant, denies, or modifies conditional use. The Town is the enforcement agency. He said he was reluctant to start the discussion here rather than the town council. When this part of town ordinance was written, it was considering the alternatives at the time such as earthship houses made out of tires, straw bale houses, etc. As Zoning Administrator, Curtis has to certify a proposed building plan meets town regulations.

Boulder Town Planning Commission, Meeting Minutes

Matt asked about people wanting to sign a waiver of responsibility. Curtis questioned that, asking how does a waiver travel to the next owner, or the grandparents of children burned up in a fire? He said it wouldn't hold up in court at all. Maybe it would work for the individual who signed it, but not all the people potentially impacted. When the town passed the 2006 resolution, they just needed a way to move on. Since then, building inspectors have changed; Steve and Curtis met recently with the current inspector, Jared Woolsey, to get the rules.

Steve: The word should be spread that yurts are not illegal if they meet IBC (building code).

Marion asked about the canvas. Elizabeth said Colorado Yurt Company describes variations of materials. There are different fire ratings on different materials.

Marian asked about people who've put up yurts over the past few years. Curtis said only the Ryan's that was constructed before 1998 and therefore before town ordinances is the only one not subject to current inspection guidelines.

The second topic Curtis wanted to discuss was the process for recommending amendments to ordinances. (handout on web): The proper flow should be 1) Put your decision into the form of a resolution. When you're ready to approve something, assign conditions, craft it here so it's complete in the minutes and the recording correctly. That resolution needs to include conditions for the applicant (in case of CUPs) and given to them so it's clear exactly what was said. Also, indicate how each person voted, aye or nay.

Also, on CUP application discussion, how you discuss the issue in the meeting is also important. Language such as "I like this, I don't like that" should be avoided by the commission. Stated in an official capacity, those words are prima facia that a decision was "arbitrary and capricious." Curtis brought up the Moab case on BnBs at which commissioners cited "talking to residents" as a foundation for their decision, but the court determined they had no factual basis--traffic studies, etc. that provided more than opinion. What you say on the record matters. To deny an application, lay out a factual foundation as your basis for decision. As shown in Brown vs Sandy, the case shows presumption goes with landowners. The town has the burden of showing a restriction is for the health, safety, and welfare of the town. Think of property rights as a bundle of sticks belonging to the landowner. Restrictions are the town removing some of those sticks. You have to justify that.

Finally, the ZA position: Curtis said his purpose in taking the job and for his remaining 26 months is to leave the Planning Commission process better than he found it. He wants to figure out a way to replace himself, either through more assistance from the county's new planner, Kaden Figgins, or even considering a part-time paid position for someone to handle permits and initial ZA intakes. He requested the Planning Commission understand his time is all volunteer and to not create work for him (such as crafting ordinance language) that has not been seriously considered (example being the handling of the LeBaron sign CUP and deciding to change, then deciding not to change ranch gate signage). And finally, remember town council is the final approving authority on ordinances. It's important to prepare them on things being worked, make sure they have some input or foreknowledge of the topic. It's best for the town council to have directed the Planning Commission's work and not assume they'll approve a recommendation they've never seen.

Continued Discussion on Zoning Ordinance, Table of Uses

Colleen mentioned "Economic Opportunity" as a topic the Town Council gave to the Planning Commission which needs to be brought back into the discussion.

Best way to proceed with ToU discussion? Curtis said the most updated and comprehensive ToU is contained at the back of the newly passed Residential Short-Term Rental ordinance. In

Boulder Town Planning Commission, Meeting Minutes

amending, you're amending the table with zone usage and the use definitions. In some cases, this may be inadequate. For example, the town needed an RV park ordinance. That document is a 4-5 page long description and requirements. The current Motel definition is a couple lines long. Point being, some uses may require more detail than just a definition.

Home child care: no change

Home occupation: Josey said work group conversation was that people felt unable to do activities from home because of the ordinance restrictions. The example from Escalante had more detail. (She read ours). Escalante's doesn't have the 750 sq ft limitation, just not more than 25% of the structure, no more than one person employed, home occ won't excessive traffic or congestion, does not create a utility or services demand in excess of a residential home, requires a business license. It's one of the driving forces of people asking us to look at the ordinances is they want to generate income from their home. The employee issue is probably biggest. I think there should be a limit. Curtis suggested having a home occupation involving parking is different on 40 acres than 1 acre. Josey thought Boulder could expand on the parking/employee limit. Also, retail sales are prohibited, whereas there could be products or services directly related to the occupation. Escalante's has good language for that—retail sales directly related to the home occupation. Matt questioned retail sales in a residential zone. He wouldn't want to require a CUP on each home occupation. Josey thought a CUP would not be necessary if home occupation is well-defined. Size of business in relation to size of the lot.

Home preschool. No change

Hotel: Current motel room maximum is 22. All agreed to lower the number to this.

Light Manufacturing: Josie read Springdale's definition: manufacturing small scale assembly and production in an operation that processes raw or unfinished material into a finished product by a single person or three or fewer skilled workers, and limited impact on surrounding property. They give examples of software production, boutique soaps and lotions, custom or artisan furniture or items. It doesn't include automated machines or assembly lines. A hybrid between Boulder and Springdale definitions would work. Matt wants to note conditions for traffic ingress/egress. Curtis suggested possibility of two different definitions, one for GMU/residential and one for commercial, Light Mfg/Residential and Light Mfg/Commercial that would be able to target traffic, density, etc. concerns. Josey said it might make the home occupation definition simpler too.

Mobile Food business: no change

Mobile Home: no change

Motel: Keep to number of room now. Matt wanted more information on septic/sewer too.

Outpatient: no change

Professional Offices: Josie thought if home occupation is fully defined, this usage should only belong in commercial because of the traffic. Piano lessons, barber, fits in home occ.

Public uses and utilities: This brought up related discussion of the rezoning clean up that Curtis had started several months ago. This needs to be brought back for discussion.

Recreational facility: Curtis asked about adding more definition: what about size? Access off the highway? How big of a lot is required? Parking? Is this a pasture paved for tennis courts? What is it? Curtis said you're trying to look at things that could have big ramifications. A definition three lines long can't cover much detail. Think of examples and compare to other towns. * This one needs more discussion.

Boulder Town Planning Commission, Meeting Minutes

Recreation Vehicle or RV and RV and Campground Park: Josey thought the definition of use as interim construction housing was important, but she questioned allowing RV Park and Campground in a GMU (ag) zone. She

Residential for Elderly: need to do some homework on state code

Resort: They had previously talked about dropping this. Josey thought it should be better defined and talk about zoning. Resorts are destinations, usually with housing and recreational component as the draw. If it's not defined, we're opening it up. Curtis said he would research how other communities handle it. Elizabeth brought up Kane County and its fancy resort that isn't a golf course or other recreation. It includes a restaurant, maybe more of a spa. What would people do here and figure it out from that?

Restaurant: no comments. Why conditional in commercial? Why not just permitted. Josey said this goes throughout most of the commercial uses--- they're mostly conditional, not permitted--- why? Curtis said it was done as a sort of control mechanism, limiting the usage and requiring interaction for future owners or uses.

Retail Sales and Services: It needs a definition.

School: no comment

Single family dwelling: no comment

Social detox facility: no comment

Special events: no comments. Temporary in all zones now. Issued by Zoning Administrator.

Veterinary clinic: Conditional, noise abatement depending on density.

Wholesale Business and Storage: Curtis will research if this includes storage units.

Final public comments

No final comments.

Upcoming business for November 14 meeting (Start time 6 p.m.)

- Public Hearing RSTR CUP, Fuller/Fogel
- Public Hearing, RSTR CUP, Troy and Elizabeth (if app in)
- Ag zone stuff (Curtis) serious legal and political problems with doing it. Look at Curtis questions for discussion.
- Table of Uses, continued (return to Recreational Facilities, more research on Motel and septic? More discussion on RV/park zoning, info on Residential Housing for Elderly, Retail Sale and Services definition, Wholesale Bus and Storage.)
- Economic opportunity

Colleen moved to adjourn, Josey seconded, and all approved. Meeting adjourned at 8:56.

Peg Smith, Planning Commission Clerk

Date