

Boulder Town
Planning Commission
Meeting Minutes
November 14, 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: Ray Nelson, Steve Cox, Bill Muse, Troy Julian, Elin Isakson, Hans Ringger, Tessa Barkan, Mark Nelson, Alex Fuller, Steve Johnson, Anson Fogel, Pete and Cookie Schaus, Daniel Kennedy, Angela Kennedy, Joshua Owen, Donna Owen.

Colleen called the meeting to order at 6:00 p.m. and asked for a motion to approve October minutes. Matt so moved, Josey seconded the motion, and all approved.

Initial Public comments

No one had comments.

Fuller/Fogel RSTR CUP application

Colleen asked Curtis to introduce Alexandra Fuller and Anson Fogel's application for a Conditional Use Permit for a Residential Short-Term Rental in their home.

Curtis displayed the packet of application materials submitted to the Planning Commission. He said all required elements of the application were complete. A business license will be required once a CUP is granted. Alex described their rental: when they're out of town, they want to be able to rent out the upstairs for short-term guests; a downstairs apartment is currently rented to a long-term occupant, which will stay the same, and that renter will serve as the defacto property manager for the RSTR. Fuller and Fogel are full-time residents who have a daughter in Boulder Elementary and who travel a lot for their work.

Josie said the property was originally part of the old Baker ranch on which her father, Bill Muse, had added deed restrictions on each of the subdivided parcels citing development density of one single family on 10 acres. (Fuller/Fogel own two 10-acres lots.) She said she would need wording in any resolution that there would be no more than the two sets of occupants on the 20 acres.

Curtis stated his reluctance at Josey not make those statements on the record as a Planning Commissioner. Josey said deed restrictions can only be altered by court process. Curtis said the town does not have the authority to intercede in private property disputes between individuals. Josey questioned how the town could approve an application with this knowledge; Curtis said it's a civil matter and town can't get involved. Josey will recuse herself from the vote.

Matt had a couple requests of additional information based on Item 6 requirements of the RSTR ordinance: ~~On item 6. He felt t~~There should be some verbal instructions regarding their property lines as well as a physical marker so guests are aware. ~~He a~~Also ~~wanted~~ fire restrictions should be clearly posted and location of fire extinguisher made clear. Alex said she'd send these to Curtis.

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Marion asked about residency. Curtis said the town council adjusted the Planning Commission's recommended version: they removed the sentence saying the unit needs to be occupied more than 180 days/yr.

Colleen asked about the status of the basement apartment being an ADU. (Yes it is.) Curtis: You can have an ADU and a primary residence. You can rent out all or part of either, but only one guest transaction at a time.

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

Public Hearing: Fuller/Fogel RSTR CUP application

Bill Muse: (Read his deed restriction to original buyers on the original 30 acres, 1998.) "...Shall not be developed into a density of less than one single family home on 10 acres." It's the same restriction on all the parcels he owned. The warranty deed doesn't show the restriction and that's weird. It doesn't go off unless I take it off. Lot 1 is Matt's, also on Lot 3 and 4; Lot 2 is Julian and has the same restriction.

Josey Muse: Deed restrictions are in perpetuity, so it does carry on. I want to talk about the spirit of the density restrictions. It was our desire on the old Baker Ranch to not have overdevelopment when these ranches started splitting up. Looking down at the Baker Ranch from the Hansen subdivision road you can see that the density restrictions worked; the pastures are open, the homes are set back, and the open space has been preserved. ~~Looking at the Hansen subdivision, the pastures are open, homes are set back.~~ We have compromised our zoning density by passing ADUs. I voted "yes" on them because I agree with mother in law housing. I voted no on short term rentals because I don't believe in doubling density in town in order to promote industrial tourism. I don't want to see the density increase down there, and that's in the spirit of our general plan.

With no other comments, Colleen asked for a motion to close the public hearing and reopen the regular meeting. Elizabeth so moved, Matt seconded. All approved.

Discussion and Vote: Fuller/Fogel RSTR application

Curtis: In light of this development, even though you're not allowed to consider the deed restriction in your deliberations, there's an issue that's come up between parties. Alex wasn't even aware of this. I suggest tabling it for 30 days until they can get together and discuss. If it can't be resolved in that 30 days, bring it back on and take a vote.

Colleen moved to table this until the Dec meeting, Matt seconded. All approved except Josey, who had recused herself from the vote.

Initial Review: Julian RSTR app

Curtis: This is a preliminary look at the application. There is a potential civil conflict between grantees and grantors, and they need to resolve it. He reviewed the Julian application. All elements have been addressed and the application was certified as complete.

Troy said the deed restriction is a new deal. The application doesn't seem to violate that in any way as the application is for a room in our house for now. Addressing the spirit of the application, he said Elizabeth been the head teacher at the school for many years now and is one of the best teachers in the district. However, it doesn't pay very well and would be nice to have another source of income. That was one of the intent of this. We also have out of town guests and family.

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Josey: (speaking as a member of public) The application mentions one bedroom or the whole house if you're traveling, ok. But the fact that there's an ADU on that property that has a certificate of occupancy is in violation of the deed restriction. Not for discussion now.

Matt said the application looked complete and he had no questions.

Conceptual Plan: Fox Grove Subdivision

Curtis introduced the basic conceptual plan: This involves Lot 6 of Fox Grove subdivision, submitted by Horizon Investment LLC, Daniel Kennedy principal, who owns the water right. Fox Grove owns the ground.

Daniel: It's a one lot subdivision, access being from the new road put in. Lot 6 would not inhibit access by the other four lots; (Lot 6 is currently part of Lot 5; the new Lot 6 is "Phase 2".) The bottom corner lot, not part of Fox Grove, was transferred from Daniel's access to them. Curtis asked Daniel to revise this information on the preliminary plat. Curtis said details will have to be worked, including the emergency access hammerhead.

Curtis asked about the new fire hydrant. Daniel said the fire hydrant will be located within 600 feet of his build site. Based on approval they'll get fire hydrant installed. Engineering is mostly done.

Plan for water: It will come from Daniel's well as well as another culinary right that will be signed over. There are three different water rights. Those need to be documented.

Josey said she wanted to see the Muse irrigation lines noted. There should be an easement indicating no building within 50 of the line. This includes the line for the Muse properties and adjacent neighbors as well as ~~Also,~~ the other irrigation line that feeds all the rest of Lower Boulder. located is two or three feet away from that. Both easements will need to be shown. Another issue: the ditch running along the property line, going into Lot 6.... On Lot 3 (Sleight) the ditch wasn't functioning. The map says there's subterranean water, which is true. But in big runoff years, it's surface water. If the ditch worked, there wouldn't be a problem. It impedes on Lot 6, so needs to be noted. (There are actually two ditches, which Daniel said he'll show the ditch and will also recommend the builder not put his house there. Josey also described the 8-inch line running along the property line. There's an easement that, needs to be shown on the preliminary plat.

Curtis said the preliminary application will require full engineering, including drainage, so any active water moving through will have to be accounted for, pipelines, no build zones described on the plat. He'll need to talk with Boulder Irrigation Co. to identify the easements and record them. We'll go through the preliminary plat in detail. The object is to not leave problems behind, either surface water or irrigation pipelines.

Daniel asked if anyone had questions about the proposed access. There weren't.

Conceptual Plan: Sugarloaf Farm Subdivision (Deer Ranch)

Presented by Joshua Owen: Two 5-acre lots called Deer Ranch (Lovato's). Access comes in past Feiler's, with maintenance agreement for taking care of road. There are three different wells that are indicated here. The lowest one is only allotted for a single family house, so we're going to partition and grant water rights from other rights we have. Fire suppression is a question, especially if it comes from a well.

Pete Benson said fire suppression from a well requires a large tank. The town needs to follow the Wildland/urban interface (WUI) code that stresses fire prevention vs suppression. Josh asked if there is precedence for fire suppression off a well? Curtis said the Mesa's 8000 gal storage tank

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on each well still doesn't come close to IBC requirements. Alternatively, Josh said city water may be accessed. Pete said if you're considering the possibility of subdividing further, you need to put the infrastructure in now.

On emergency access, Josh pointed out that a firetruck had sufficient access with two turnarounds, maybe discussing a hammerhead for trucks.

Matt asked about slopes. Josh said the lots are nestled against the slope in back. Certain areas could be build sites, but there are unbuildable areas (above 30%) on part of the lots. Curtis said he'll need to produce two-foot topos that will show the slope. Between 15 and 30% are some details of engineering work. He said there's plenty of land under the 15% number where homes could be located.

Discuss Amendment to Section 11 of Zoning Ordinance (Building Permits)

Colleen asked Curtis to review: The application comes from the Town Council. Steve said this is more a consolidation of ordinances, such as the \$1000 amount passed in 1996 and no longer applicable. This is mostly cleaning up that section, and to clarify difference building permits and project approvals.

Colleen asked about yurts. Steve said you can build a yurt, but it has to be up to code. This is trying to iron out the things that have come up over the years. We're trying to codify our ordinances now and we want things as clean as they can be. When do you need a project approval and when do you need a building permit?

Curtis said Section 11 is pretty clear on building permits, but it doesn't address project permits. Say you want to build a chicken coop. You call the zoning administrator, attach your plat map that identifies setbacks, slopes, height limitations, proximity to irrigation easements, etc. The Project permit is a way for people to know they're legal and won't create or run into problems. In order to make this reasonable for residents, we have a simple application. They apply for the project permit. If that process indicates the applicant needs a building permit (utilities, dwelling), it's a two-step process—the application would first have to meet town zoning requirements, and then the county issues the building permit and does the inspection. Section 1102 is the rough language. Exemptions include ag buildings, etc., and our ordinances states only allowed in GMU. The typical size limit for a project is 200 sq feet or less, strictly for storage and no human habitation or electrical, plumbing, or mechanical.

Matt asked about storage containers, saying they're typically 320 sq feet, 40 feet long. Curtis will look into those and add them. Curtis said it makes sense to not have a fee for a project.

Curtis will add cargo containers under #4 and will look at the \$1000 limit, such as anything over a certain amount requiring utilities. There was more discussion on how to determine value and limit.

Continued Discussion: Table of Uses

Matt read ToU additions submitted by Peg that had come up in the 2018 land use committee: performance venue, art studio, riding stables, shooting range, laundromat, car wash, recycling center.

Performance venue (a three or four-season building, stage, and enclosed space for audience): Josey said given parking and noise, this wouldn't be desirable in a residential area. Consider CUP in commercial zone. It fits with the culture of the town. Let's look at other examples and

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define it. Elizabeth brought up the conceptual plan a resident has already submitted for her property, which isn't a commercial zone. We should define it first, then talk about zones.

Art studio: Josey said it's an appropriate use too. Maybe if we better define home occupation, it can be included there.

Riding Stables: Josey said it's applicable here. Maybe consider GMU and lower density. A limit on the size of property? It also needs to be defined.

Elizabeth suggested determining the definitions first for new uses, then get examples from elsewhere, and add them after that to the summary chart for discussion. We need to decide if it's a new and independent use or could be part of an existing use. Matt suggested needing a working group just on this. Colleen said the plan for next month is to add all new definitions.

Curtis said working groups can't contain three commissioners or it needs to be advertised as a public meeting. You can have two members and some members of the public, or two of those... Colleen said we'll try to consolidate thoughts on definitions, and we can work on this during Jan/Feb when Curtis isn't here.

Curtis said as you consider working on the ToU and working groups, consider including Town Council too, partly for the team effort and also so you have a sense of what they're thinking. You could have two Planning Commission and two council members. They're ultimately the people who'll have to decide on this.

Upcoming business for December 12 meeting

Curtis has been talking to Kaden Figgins, the county planner. He's willing to come in December to answer questions about conditional uses. Are we building stress into the system through misusing conditional uses? Not zoning for some growth? There needs to be way to strike a balance so we end up with a product that can stand up to a challenge.

Colleen also wants to use the workshop (Lee Nellis) paperwork to use as a basis for deciding.

- Public Hearing and action on Julian RSTR CUP
- Alex Fuller CUP
- Public Hearing and action on Section 11 Amendment to ZO
- Decide how to do working meetings for ToU
- Continued discussion of ToU
- Economic opportunity
- Kaden Figgins

Final public comments

No final comments.

Matt moved to adjourn, Josey seconded, and all approved. Meeting adjourned at 7:52 pm.

Peg Smith, Planning Commission Clerk

Date