

# Meeting Minutes

## Boulder Town Planning Commission

### Regular Meeting and Public Hearing

**January 10, 2008, 7:00 p.m.**

Commissioners present: Elaine Roundy, Brian Dick, and Mike Nelson. Ray Gardner and BJ Orozco were absent. Also present was Commission Clerk, Peg Smith; Planning Coordinator, Curtis Oberhansly; and Town Council Liaison, Randy Ripplinger. Members of the public included Eva Moore, Don Montoya, Anselm Spring, Ashley Coombs, and Sergio Femenias.

#### **Meeting Agenda**

- Approve minutes from December 13 meeting
- Continue discussion of Planned Use Development (clustered development)
- Discuss plan for January 24 General Plan meeting
- Discuss February 14 agenda

Brian called the meeting to order at 7:06 p.m. and asked for approval of the December 13 minutes. Other than Ashley being mentioned twice in the draft minutes, Elaine moved to approve the minutes as written. Mike seconded the motion, and all approved.

#### **Continue PUD Discussion**

Mike had previously volunteered to contact Bruce to obtain his commentary and arrange for another meeting. He said he had called Bruce and left messages, but never received a callback. A day ago, Judi circulated an email to the Commission saying that had been out of town and that he would like to meet Feb 12 at 3 p.m. The Commissioners discussed that date, and Curtis said he would be unavailable. They suggested meeting on the next town council date of Thursday, Feb 7, as early in the day as possible. If that doesn't work then the Commission should go ahead with Feb 12, and January 24 (the actual planned meeting for General Plan discussion) would be the third choice. Peg will relay this information to Judi who will make the contact with Bruce.

Eva had a question about the allowability of clustering: if a 20-acre parcel of land has only seven developable acres on it, does that mean the developer can cluster five houses on it? Curtis said that in almost all clustering ordinances, the entire parcel of land must be considered as a whole. In a case in which only 7 acres are developable on a 20-acre parcel, only one lot would be allowed under Boulder's current 5-acre minimum. He said the concept of clustering really applies only to those situations where you have a chunk of land, all of which is potentially developable. Clustering just allows the developer to rearrange the configuration of the lots that he/she would be entitled to on the entire piece. It provides flexibility to group housing according to the lay of the land or to desired common open space, rather than be forced to slice the parcel into 5-acre rectangles.

Anselm asked about the standards that pertain to "developable land." He said a PUD makes sense only if it is very flexible in terms of A) preserving farmland, and building only on land not good for that, and B) creating affordable housing for people who can't afford to buy the five acres. He said, "If my

deal with Martina works out, I am planning on building 20 units of pueblo-type housing on 10 acres of land. He asked if the 20 units need to be connected and what would be considered a dwelling? Curtis said such a plan would require a zone change for housing density, or the commission could recommend spot zoning to accommodate that type of affordable housing. Mike added that a zone change would require a public hearing, etc. Curtis also interjected that "long and skinny" lots were no longer allowed; that a one-third to two-thirds ratio of front to side dimensions is now required. Curtis thought that a minimum of 2-3 months would be required for Anselm to accomplish a zone change for his plan. Anselm also asked about road grade. The confusing issue of Anselm's road to his mesa top was discussed. That road clearly exceeds the typical public road standard of 8-12 percent and fire marshall codes prohibit anything over 12 percent. Still, a judge declared the Anselm's road declared public despite its exceeding 12-16% grade.

Curtis said there are various definitions of public roads, getting into dedicated roads, private easements, etc. The main question is if you have a mesa top and top is private land. Slope itself is considered sensitive land, and Don said the road itself has to be maintainable from an engineering perspective. With regard to the clustering, any development would still have meet the roads requirement in terms of access, and that's a different standard than would be applied to simple public access to the fishing pond or a lover's lane. That type of public access road would not have to meet the requirements of road standards that a development does.

Brian began listing the main discussion points that were coming up. These are the types of elements that would translate into requirements stipulated in a PUD ordinance:

- The development meet all current ordinances
- The parcel must be accessible according to current ordinances
- The entire parcel must be developable land
- The developer must present a site plan for the entire parcel, including the clustered elements.
- The developer may obtain density credits (to be discussed further)
- The developer may negotiate transferable development rights (to be discussed further)
- The developer must set up a homeowners' association, and the deed restrictions on all the lots must contain precise language that would preclude future development of the intended open space.

Curtis said that the PUD stipulations would just be "another layer on top after all the other [development] requirements are met."

Randy returned to the pueblo concept---could these units be connected or would they have to be separate? Curtis said each unit would be considered a single family unit. If it's on land that is currently multi-use agricultural land, it would need to be rezoned. He said Anselm would have to start with the basics: what zone is that land currently in? Anselm asked if the entire 100-acre parcel had to be zoned the same. Curtis said the PUD ordinance is almost perfectly suited for 100 acres. Anselm currently would be entitled to 20 units, and this is perfect example of how he might determine how those 20 units are arranged. The remainder could be farmed, maintained as agricultural land. A buyer could do XYZ on his/her one acre, and on the remainder, the developer would have incorporated a homeowner's association, establishing bylaws, board of directors, etc. and those people would end up making decisions about the land's management.

Eva said that in effect, even though you are only living on a one-acre lot, you are actually buying the whole lot, even though some is open space. Curtis said that is different from a true affordable housing scenario.

Anselm asked if homeowner's association (shareholders). Your shares go with the sale. Brian said one thing discussed with clustering was density credits. Do we want to include this with our ordinance? Is a way of giving a developer a credit for. Typical density credit would be one unit for home per 20 units. Transferable development rights from owner of land within sending zone to owner of land within receiving zone. Allow developers to trade within whole state development units. Was thinking about Anselm's and put in PUD ordinance. For example right now you end up with 101 acres. Maybe you don't use all your density credits, you could consider the farm the sending zone and the mesa area the receiving zone. Anselm asked if could transfer from owner to owner? We can ask Bruce about simple transference and how it applies. Randy thought could defeat the purpose. If is one owner, want to go light density in one area and heavy in another. PUD works well for one owner.

Randy asked about---Curtis said not. Doesn't apply. (Listen to minutes)

Anselm said we should key off Gen Plan and use all possible ways to make our vision come true. Randy thinks PUD gives people another option of a way to get into land where they otherwise couldn't get it.

Don suggested us drafting language that Bruce can review. Mike said we have the county PUD, and Don thinks other sample doc exists. We should be able to draft and have him review with the stuff we want to put in and present. Anselm asked if there is an immediate need that would push the issue, is more likely something will happen.

Eva asked about adding to list need for language that would prevent future monkeying with. Curtis said way is happening now is through conservation easements. If is a simple deed restriction, the owners can get together and set in language, but if enough money is involved, nothing prevents the owners from voting with their pocketbooks and changing the language within their own deeds. Don asked about adding trust language on top of the deed, so that conservancy would be the enforcer? Curtis said when the developer of the land passes it on, the documents are the deed, the HOA, a recordable document called conservation easement that sets forth all terms, notarized, signed and recorded just like deed. Is signed by holder who agrees to take it---whether town or other agency—and they become the agent. Deed restriction has to rise to the level of enforcement.

Anselm thought there always has to be the possibility of change.

Don said if we look at these line items from the list, would be in our best interest to start taking a look at existing PUDs, input our requirements, then present to Bruce. Mike said we were using Garfield County's. Brian asked Don if he would be willing to do the research, and Don said yes. He is working with educational institutions and wants to find something that would work for Boulder. Anselm asked about architectural code. Mike said is a height restriction of 30 feet.

Brian asked about any other old business, the historic Preservation ordinance presented to Tc in March. Is planning to have state historical preservation officer come down to make that.

### **Determine General Plan Discussion**

Brian said he is frustrated with the PC lack of getting things completed. Would like to come up with a plan. Need to get through known things before we get hit with something big.

Curtis said that we did chapters 1-6 with the county planner, and 9 through 12, but 7 and 8 is the real meat of the thing. Became apparent that could have a committee to work through and have Bruce do it and is within his contract. Everyone expressed frustration about lack of action and lack of communication. Can we go to the grant person who is a professional planner. As far as switching money to someone else, we'd have to call. Brain will talk to mayor tomorrow and relate this discussion and ask Bill to talk to Bruce.

Serge said TC hired Bruce because of PC recommendation. Why not send a memo to mayor requesting that town fire him--two years, no response, no action. Everyone agreed. Peg will draft a memo and send to Brian for signature to mayor.

January 24 meeting to discuss General Plan, start review on Chapters 7 and 8. Curtis suggested turning into a real work meeting, public invited.

Brian asked about new county planner. Curtis said the new guy is not expert in planning. Mike won't be there. Curtis and Tim will try to distribute by email.

### **Discuss February 14 Agenda**

Will dog barking ordinance come to the planning commission? Don thought the action was possibly already on the books. Otherwise would need to apply for CUP, and if kennel isn't defined, then would need to add. Elaine wondered about ag animals, but that wasn't a problem.

Mike moved to adjourn the meeting. Elaine seconded the motion, and all approved. Brian adjourned the meeting at 8:26 p.m..

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Margaret Smith, Planning Commission Clerk

Date

Approved: \_\_\_\_\_ Date: \_\_\_\_\_