

**Meeting Minutes**  
**Boulder Town**  
***Planning Commission***

**June 14, 2018**

Present in the room: Commissioners Matt Cochran, Josey Muse, and Colleen Thompson. Tabor Dahl and Perry Tancredi were absent. Secretary Peg Smith; Town Liaison Pete Benson; and Zoning Administrator Curtis Oberhansly. Members of the public: Steve Cox, Pete and Cookie Schaus, Scott Aho, Dan Pence, Ashley Coombs, Elizabeth and Troy Julian, Mark Nelson, Ray Nelson, Daniel Kennedy, Tina Karlsson, Dave Conine, Lee Nellis, Donna Owen.

Vice chair Colleen Thompson called the meeting to order at 7: 04. Josey moved to approve May minutes, Matt seconded, and all three approved.

Colleen reviewed the agenda and outlined the proceedings for the evening. Curtis summarized the current ADU (accessory dwelling unit) discussion, saying he if can get at the specific “elements” of a desired ordinance, he can develop a draft ordinance to discuss next meeting. There was some discussion about changing the nomenclature to “additional dwelling unit,” but this suggestion ultimately did not prevail (See Dave Conine and Lee Nellis comments later.)

Curtis had reviewed several other jurisdictions’ ordinances for ADUs. Basic criteria for ADUs include a separate bathroom and kitchen, place to sleep, and a separate entrance. Most have some type of maximum size limitation, although he noted that most of the comparisons were ADUs within urban areas and on much smaller lots than Boulder’s standard 5-acre lot. (Still refers to single-family residential lots.) Number of ADUs would be one per legal lot. Most jurisdictions say the owner must occupy either the primary dwelling or the ADU, with the controlling document being a conditional use permit. A Conditional Use Permit controls ADU use as a rental, as distinguished from a visitor’s guesthouse. You wouldn’t need a CUP if the ADU is only used for non-renting guests (no rent). The details can be tailored to Boulder’s needs.

The Planning Commission had asked for plain language, including clauses that describe the need for the ordinance (“whereas Boulder has...”) IBC-compliance (International Building Code) distinguishes the construction of an accessory dwelling unit from a trailer or other non-dwelling accessory building. Matt asked the difference between short and long-term rental: 30 days or more is generally long-term; less than that would be short-term rental, or in our words, a “vacation home rental”.

Colleen explained the public hearing procedures. At 7: 27, Matt moved to close the regular meeting and open a public hearing, Josey seconded, and all approved.

***Public Hearing on Additional Dwelling Units***

Ray Nelson: There didn’t seem to be an allowance for vacation rental units. Curtis answered: the vacation home rental discussion is separate from ADUs at this point due to a difference in usage.

Steve Cox: Can an ADU be either attached and detached? Curtis said requiring a separate entrance allows either.

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Dan Pence: As a member of the housing committee that met, thanks for addressing something we've spent weeks and weeks discussing.

Daniel Kennedy: Regarding size, if you're choosing a blanket size, I'd suggested 1200- 1500 sq feet; or depending on zoning, provide a size restriction. For a rental, you can usually have a comfortable 1100-1200 sq ft, but 1000 sq. ft or less is generally too tight for a renter with a small family. Some homes are in a GMU zone but may still be a (nonconforming) 1/2 acre lot. Need clarification on how this is to be handled, whether attached to size of lot or zone.

Dave Conine: First, congratulations for taking on the work groups and focusing on housing. This topic is critical to land use, econ dev, so thanks. The standard language used in planning is accessory dwelling unit for residential structures and accessory building for a workshop or art studio. That language would make consistent with ordinances around the state.

Elizabeth Julian: Thanks for participating in the work groups, and using it. In the whereas statements, I'd like to have added the desire to "support income and economic development for people using their own land." Whether it's a guest house or not, it supports construction businesses in town.

Troy Julian: 1) long term versus short term is a different conversation, and should be eliminated in the whereas clauses. 2) 1500 sq feet should be stated as a maximum. But what does the 1500 sq ft solves for us? (Curtis said every ordinance has some sort of size limit. Here it would mostly protect visual encroachment. Josey said there is also a concern about the density of septic systems. Matt said regardless of lot size, he wouldn't want to see mega size houses, and it identifies roughly with sizes of places in Boulder. 3) I'm trying to understand why we're doing things as well as what we're doing. I wonder having a number limit per lot would encourage people to subdivide as small as possible and put two units on it. How does this work with clustering? 4) Remove any reference to "family" so we don't argue about it. The definition already exists. Matt asked what Troy meant about clustering. Troy said that outlined this in the document they produced for the housing committee.

Mark Nelson: I disagree with Troy and Curtis in wanting to separate ADUs from vacation rental housing discussion; you can't separate those issues because every ADU is a potential vacation rental. To zone the whole town for a housing issue that's not that big is a mistake. This doesn't target the problem of housing for low income people. One size doesn't fit all. Five acres is one thing, but for one acre, 1500 is too much. Tabor had said last meeting this doubles the density of the whole town. We need to address housing, but this doesn't target that. I'm a proponent of clustering and giving owners incentives to do so. Vacation home rentals turns the whole town into tourist housing. We need comprehensive, holistic planning. We need to be targeting needs of long-term housing.

Peg Smith: (as private citizen). What gets lost is that ADUs do already exist for guesthouse purposes and this would make them legal. Also, we should recognize a growing need to provide a live-in space for elder caretakers, which is also addressed by having legal ADUs. These needs can clearly be distinguished from discussion about vacation home rentals.

Matt moved to close public hearing and reopen regular meeting. Josey seconded. All approved. Colleen closed the public hearing and reopened the regular meeting at 7:55 p.m.

### ***Discussion on Additional Dwelling Units***

Josey: I agree with Mark and Tabor that this doubles the density of this town and I don't want to see this. We've zoned for specific (residential) use and this sort of throws this away. 1500 sq feet is a whole additional, three-bedroom home, and is definitely too big on a 1 acre lot. We don't have a sewer system yet, and if we're doubling density, we need to start talking about upping our infrastructure. She expressed concern about long term water quality.

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Matt: Allowing ADUs does create the potential for doubling the density, but how many people actually will do that? I also agree with Josey that 1500 sq ft seems big. My thoughts are to keep it in character with a small town feel. I would suggest smaller footage, especially for smaller lots. Does it help with the clustering or mess it up to say the ADU needs to be in certain proximity to the original house? Does the conditional use permit process mean the neighbors can come in to express concern or, for reapplication, register complaints and need for more conditions? Regarding whether the owner occupies?

Curtis: You can rent out your house if you don't live here. That's not at issue. This has been talked about now for 5 years. My goal is to help you arrive at a decision, establish a path forward, whatever is the decision.

Colleen: I agree about the size of the lot affecting the size of the building. I don't think everyone is going to build one. We're going to have to have the right septic situation as people come in.

Josey: In the last 20 years, I've have seen a lot of land change hands. As people are buying property and considering how to pay for it, I think we'll see more potential of this (building/renting ADUs). Maybe today there wouldn't be that many people interested, but in 20 years, I think you'll see it.

Curtis: To get at these required elements, what do you want me to draft or not? Everyone agreed needing bathroom, kitchen, sleeping area, separate entrance. Size should be correlated to the size of the lot: 1200 sq ft on 5 acres. For 2.5 acres, limit to 900 sq foot in certain proximity to the house rather than requiring attached. For smaller lots than that, have to attach. One ADU per legal lot. Occupancy as defined by ordinance, so saying "single-family" needs to stay, which simply means "housekeeping unit." To eliminate parking on the road, use number of bedrooms as the base to define. CUP is not needed for guests, only if renting. Don't allow rental of both principle home and ADU. Either unit can be the primary residence or valid second-home.

Curtis will develop a rough draft based on these elements.

### ***Corrective Zoning Proposal***

Colleen said this includes only specific properties: Anasazi State Park, Town Hall property including fire station and PO, Town Park property, LDS chapel, Boulder Elementary, South Central, and Garkane.

Curtis: Starting at the north, Garkane, now in GMU; state park in MDR, church commercial, school residential, town grounds and park are MDR. Most of these uses are municipal uses, or as defined in other jurisdictions "public or semi-public zones"...these can include sales, like the post office. The museum sells things, but its primary use is not for commercial purposes.. [Curtis read his draft.]

This strictly focused on current uses: reads the permitted uses. The reason he kept the utilities conditional is if Southcentral wanted to bring in big transformers; you'd want to control that. This is just a first pass.

Steve asked about cemetery zoning. Municipal and civic functions is the primary use in a new zoning definition, and just dealing with the properties that are already there. Matt moved to close the regular meeting and open a public hearing on public and semi-public rezoning. Josey seconded. Colleen closed the regular meeting at 8:26 p.m. and opened a public hearing.

### ***Public Hearing on Corrective Zoning***

Donna Owen: What is the definition for MDR and allowed uses. See ZO.

Mark Nelson: As I recall most of those uses on MDR are not illegal, they are conditional. Hall's precipitated this. There needs to be some review or adjustments on nonconforming uses, but I'd

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be worried about seeing 0 setbacks on commercial or public properties. On commercial properties improvements should be in scale with the town. I want to avoid buildings being built on top of each other. I'm glad a local family took up Halls, but I don't want to see too much built. And I'm curious how it affects me, since all these properties border me.

Cookie Schaus: This is not a general discussion on zoning. This just seems like a no-brainer.

[There was some discussion on cemetery zoning, whether it's "residential" or not. Matt said as long as it's not "transient."]. Josey said there may be some health and safety requirements

Donna Owen: No mention of setbacks? Curtis said setbacks do need to be added. Are other zone changes are possible? Curtis said anyone can apply for a rezone.

Matt moved to close the public hearing and reopen the public meeting; Josey seconded the motion. All approved. Colleen closed the hearing and reopened the meeting at 8:39 p.m.

### ***Discussion on Corrective Zoning***

Curtis said this is the first time this topic has even been discussed, so more input is needed.

Colleen asked Steve Cox for comments from the town council. Steve said the town has been asking for ADUs to be addressed for a long time. People are building, and they're in legal limbo until this gets resolved. I'm glad you're addressing this so we can act on it. Regarding the need for the rezoning...these were just things that were missed initially. It needs more clarification, such as what the new zone allows, setbacks, etc. Thanks for moving on this. Curtis said he'd synthesize the comments and get a draft back.

### ***Discuss Upcoming Business and Next Meeting, July 12***

Known or likely topics for the next regular meeting are:

- Continue discussion on ADU draft by commission.
- Continue discussion on corrective rezone draft by commission
- Initiate a work committee to deal with General Plan revisions, Josey Muse heading committee?

Josey won't be available to work with a general plan committee until at least later in July. Commissioners agreed to hold off on vacation home rental discussion until these two issues are handled.

Lee Nellis, a visiting professional planner, said the term "accessory" implies something that is dependent on and subordinate to the primary land use. "Think about an accessory use being smaller." With ADUs, by definition, that accessory would have to be smaller than the principal dwelling. You can't condition rentals. You can do require a CUP for all ADUs across the board, whether owned, rented, or used as a guesthouse. You can't condition on tenure (ownership versus rental). You can't make tenure (ownership) a condition. If I own 2.5 acres, I can build a house and use it as a rental. You're only talking about physical, tangible uses of land. In best practice, an accessory use doesn't require a CUP. Its rules are well-defined enough.

Matt moved to adjourn, Josey, seconded the motion, and all approved. Colleen adjourned the meeting at 8:58 p.m.

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Peg Smith, Planning Commission Clerk

Date