

Boulder Town
Planning Commission
Meeting Minutes
June 11, 2020

Zoom meeting, Commission quorum present: Colleen Thompson, chair; Matt Cochran, Josey Muse, Cookie Schaus, Haylee Apperson, and Marian Johnson. Also attending: Secretary Peg Smith; Zoning Administrator Curtis Oberhansly; Town Council liaison Judy Drain.

Members of the public: Steve and Cheryl Cox, Michala Alldredge, Patrice Arent and Dave Mock, Andy and Andria Rice, Denise Pennington and Ray Nelson, Elizabeth Julian, Dave and Suzanne Conine, John Andrews, Tessa Barkan, Tom and Caroline Hoyt, Jill Trombley, Ashley Coombs, Scott Aho, Kipp Greene, Brynn Brodie, Sergio Femenias, Tina Karlsson, Jennifer Geerlings, Jacqui Smalley, Anson Fogel.

Colleen opened the meeting at 7:05 p.m. She asked for a motion to approve the May minutes; Peg noted a correction submitted by Josey. Cookie moved to approve the minutes, Matt seconded. Roll call vote; all approved.

Cookie moved to approve the agenda, Matt seconded. Roll call vote; all approved.

Initial Public Comments

Peg asked that anyone making a statement throughout the meeting state their names for the recording.

Public Hearing, followed by action on Smalley Arts and Cultural Center CUP

Matt moved to close the regular meeting and go into public hearing. Cookie seconded. All approved. Zoning administrator Curtis Oberhansly introduced the application packet, followed by his staff report which includes findings and conditions, also displayed online.

The applicant's property is in a Greenbelt/Multiple Use (GMU) zone which allows both uses identified in the application: recreation facility (leisure activity being arts) and school (both arts education and sustainable agricultural practices). The application covers three major elements: the structure, the parking lot, and the facility's uses. The historic barn has to be preserved as is. The area between the barn and the existing modular residence was used for corrals, so no ag land is being taken out of production to accommodate the new building or parking area. The modular dwelling will be demolished and replaced by the Center. In-holdings include the Flake property (approx. 1000 feet from the front of the proposed Center), Gloria Holladay property, and Stacy Davis property. The proposed structure, approx. 4000 square feet, architecturally mirrors the barn with the parking in between. Hwy 12 would be about 100 feet south of the building. The interior accommodates a lobby with gallery space, auditorium with 112 seating capacity/open area, stage, restrooms, sound booth, and a small warming kitchen. The 50-space parking lot, as shown in the drawings, exceeds requirements of Boulder Town Zoning ordinance, but was stipulated by UDOT and the county inspector.

Water and power are already available onsite; the existing septic system will need to be renovated. A UDOT permit is not required for the specified uses as a community-based arts and

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ag center. If it were advertised as a tourist facility, a traffic study would be required, along with turnout lanes, etc.

Boulder does not have architectural standards to address. Signage is not included at this time and will require its own CUP. The plan addresses Section 606 requirements for offstreet parking: ADA access required, location of parking spots. All parking would be in that lot. Current parking used by the modular unit would be fenced off, and no parking would be allowed adjacent to the highway. There are no drainage issues apparent on the two-foot topos. No construction is projected on any slope over 15%. Landscaping is a big deal, required as a visual buffer for the parking area. Conditions will require the applicant to thoroughly assess, but at present, views from adjacent dwellings toward planned construction are already obscured: a hill and the barn largely block the parking lot and new structure from the Flake house; a hill and vegetation along an irrigation ditch buffers the Davis and Holladay properties from the construction. Lighting will be IDA-compliant, shielded, on and around the structure.

Typical conditions that the town could apply on such a new use would include property management plan, noise/light trespass, and site line buffering.

Staff report: The application has addressed ZO Sections 803, 804, and 606, conditions can also be imposed to mitigate nuisance. Recommended action is approval with six conditions, detailed out in the staff report: 1) Parking lot and landscaping (a max of 50 stalls and detailed landscaping plan with irrigation.) 2) Detailed architectural/engineering drawings of interior, exterior. 3) the UDOT permit specifying parking requirements and access. 4) Property management plan submitted. 5) Final plans and specifications submitted prior to project approval. 6) Approval subject to suspension/revocation if conditions aren't met.

Public hearing comments:

Jacqui Smalley, applicant: Read her vision statement of the conceptualized facility, included in the packet. She notes the long history of community participation in Boulder arts.

Cheryl Cox, Arts Council: We've created community events for the past 15 years. Lighting, seating problems with Community Center as performance venue. Boulder people tend to not attend their events hosted in Escalante. Jacqui has long donated to the community in the arts, for scholarships to local students. I'm excited about the marriage of arts and ag --- possibilities like folk arts, horseshoeing, gardens, and other things not yet imagined. This shows a commitment to our Boulder heritage.

Andy Rice, BCC Ranch Mgr: We have some big ideas and are trying to head in a more regenerative direction [on the ranch], and if anyone is interested in what we're doing, they're welcome to find out about it. We aren't trying to instruct people on how they should do things. Boulder Creek Canyon Ranch wants an agricultural education center here to offer space to locals, to groups such as 4H, the school, and our main federal partner, the NRCS. They provide resources to farmers like ourselves and others to farm better with less resources. NRCS believes our community is "underserved" and a "resource poor" area. They are excited about being able to utilize this space and want to communicate more with Boulder people. For myself, the opportunity to have a home base here for 4H kids would be great, where they can work with each other and with animals. From a local perspective: there's an open door and the ability for our neighbors to have workshops, teaching opportunities, so much more.

Elizabeth Julian, head teacher at Boulder Elementary: Over the years, the school has brought Utah Opera, Utah Shakespeare, Ririe Woodbury, Utah Children's Theatre, Natural History museum, many more. They teach, they perform, they collaborate with children and adults in the community. Many of these activities have to be held in Escalante, but Boulder families can't all attend. We also don't have a high large enough building in Boulder to accommodate an inflatable, portable planetarium that has traveled to towns around us. Two years ago our

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students traveled to Escalante every day to perform on the stage at the high school. Not only did that take extra time out of the day, but we exceeded our travel budget getting to events. Our school doesn't have gym, stage, or auditorium like many schools do. I'm excited to see what Jacqui's facility makes possible for our community.

Colleen noted the letters that were received, compiled and sent out to Planning Commission prior to the meeting. Peg said she'd received two additional letters after the compilation had been distributed; all received letters are on the town website, along with all other supporting documentation for this meeting. Michala gave instruction on how to "raise hands" online. Josey asked how many letters were received. (23 were received.) Colleen said they will all be available on the website and only people on the call will speak. Josey tried to comment, but the transmission was garbled. Colleen wanted to be able to hear from everyone on the call who wants to comment. There were 27 participants on the call, not including the Planning Commissioners themselves.

Dave Mock: Can see there's been a need for a facility like this in the community for decades. It brings a place of convergence of culture of ag and the arts, unique to the community. This is outstanding, and I'm grateful.

Patrice Arent: I attend a lot of meetings, and normally the big issue for such a project is how to raise money for it. This is a unique opportunity made available for Boulder. I strongly urge supporting it.

Josey: As a condition of having public hearings online rather than physical presence was that citizens could submit letters. If we were in a public hearing, everyone would have the chance to get up to speak. It's unfair in a public hearing setting. The least we can do is read the letters of those not present tonight. Michala noted the tollfree call-in available if they don't have computers. Colleen repeated that the letters were written to the Planning Commission and had been distributed to them so those comments were "heard." They're available online for the public. I want to hear from people on the call now.

Steve Cox: Cheryl and I live south and adjacent to BCCR, across the highway. As stated in section 804, regarding conditions for approval, [listed] conditions may be applied... "for the protection of adjacent properties and the public interest." One of the reasons for a CUP public hearing is to determine if the applicant has identified and agreed to conditions necessary for protection of adjacent properties such as ours. I'm satisfied that the application and staff report addresses and mitigates impacts and outlines conditions required for approval of this application. I'm in favor and want to thank Jacqui for her generosity for allowing the town to have such a wonderful gift.

Tina Karlsson: This is an amazing gift. The issues that this would change Boulder in some way is not to the advantage of the people. I don't feel the facility will do anything but support the community. It will allow us all to be better educated, fulfilled, and communicate better.

Scott Aho: I'm a visual artist, and member of Boulder Arts Council. Boulder's main identity is as a creative hotbed, a cascade of performing and visual artists. It has deep roots in the arts. The Center provides a home base for this unique aspect, with its versatile layout that will accommodate performance, display, and educational activities. Its location is functional too with its own footprint and ample parking. It doesn't add to congestion in town. And the motive of Jacqui is clear: it's not for financial profit and not for tourist attraction. It's purely to provide a facility for the spirit of creativity of the people of Boulder. Artists are driven to make art, to perform and display art. This provides that. This is an amazing and rare gift for Boulder and should be embraced for the decades of service it will provide to the residents of Boulder.

Andria Rice: I wrote one of the letters in favor of the facility. I've been a resident for two years and am the mother of two young children. It's wonderful having a facility to teach children the

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things that embrace the lifestyle and culture of this community. The idea of having 4H available just down the road instead driving over the mountain or an hour away is exciting and an important part of raising our children now. Also, early this year I started a beginning ballet class for young children and had an overwhelming response to that, both girls and boys. I was able to use the Community Center to offer that class, but the conditions in the CC are not great for dance class--- not great for older joints and dancing on concrete isn't good for anyone. The thought of having a facility that can offer that is great. Thank to Jacqui for the generous offer and plan.

Tessa Barkin: I'm grateful for the opportunities the Arts Council has given us in this town, but they have already been available to us. I have concerns about this Center. It doesn't fit the primary objectives of our General Plan and I have concern about rising property values. I've researched this and found a connection between property values and developments like this. I'm worried about increasing land values closing out young families, including people my age.

Curtis stated 23 letters received, 5 opposed and 18 in favor.

Matt moved to close the public hearing, Haylee seconded. Colleen, Matt, Josey, Cookie, Haylee each voted aye.

Regular Meeting Discussion:

Josey: CUPs fall under the ZO. She read from Section 104, intent of ordinance to implement the goals and policies of the General Plan. She said CUPs are required to be in compliance with the GP. Regarding the application, arts and cultures supports some of the goals, mainly goal 7 to provide community education and recreation. I don't agree it complies with ranching aspect and in keeping with the quiet, rural spirit of the community. I appreciate the proposed buffers for shielding surrounding homes but the viewshed from Hwy 12 will be forever impacted. The proposed center will look like a barn but with a massive parking lot. Some of our commenters express concern about increased property values. Prices are so far above median income that the only people who can afford to buy and build here are wealthy move-ins. Young families and working class will have to move elsewhere. Another concern is the cost to maintain and operate the facility. What about the future responsibility? **Will Boulder residents taxes be used to maintain and operate this building?** Original deed of conservations describes the applicable zone and limitations to modifying structures, and this exceeds that in footprint (2500 to 4000 sq ft) and possible height. The deed of conservation easement also said commercial activity is prohibited. While stated in the application that this is not a commercial use, it can accommodate 110 people. I appreciate changes added today about not advertising it as a tourist destination or a for-profit activity. Conservation easements such as this are not bullet proof. Although stated as perpetual, I quote, "The property will be retained forever ..." There are two amendments to the original conservation amendment that I'm concerned that these deviate from the original intent. The community work groups agreed they wanted to Keep Boulder Boulder. Since then, the Planning Commission has passed ADU ordinance that doubles our density and the RSTR ordinance that allows commercial tourism into what were quiet residential areas. **CUPs are on the rise, and it's imperative that cumulative effects from every CUP needs to be considered with each new application.** This is not happening. I'm in agreement this is being pushed through to not give everyone the right to express their concerns.

Curtis: To clear up a couple legal points: The General Plan has things that support this and support ag, but is not the governing doc in issuing a CUP. It guides construction of the ordinances. You have to look to the ordinances in making a decision as clearly described in case law. An applicant is entitled to have a hearing under the ordinance. The deed restriction is not the business of the town, it's between the applicant and the holders, in this case the NRCS and State of Utah.

Colleen: Mark McIff, our town attorney, also said the application complied with the ordinances.

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Matt: Steve read the same statement about conditions and mitigation from the ordinance. It includes protecting the “public interest.” When I hear public interest, I have to go to the General Plan which is the basis for making decisions on land use applications. This is a generous offer, in many ways consistent with GP, but there are also some inconsistencies with public interest. It’s a project at odds with itself. It has the potential to change the character of Boulder rather than preserve it. The character is a spread out, egalitarian, local feeling, downscale, creative. I think centralizing and upscaling could erode the spirit of Boulder. The ag component is ok, but the arts lead to unintended consequences of destination tourism that has commercial undertones and could change demographics of town. Residents don’t want an imported urban lifestyle. There’s a possibility of a gentrification process that could change our character, veering away from self-resiliency. Though center is community based, it still has the possibility of attracting outside interests and attendees. The consequences don’t serve the full intent of public interest and rural spirit of Boulder. Questions on mitigations and conditions: how do we mitigate for gentrification and possible commercial undertones? How do we mitigate for unintended consequences? Questions about temporary use or special use permits? Also, a condition that the CUP has a check in by the Planning Commission to monitor its ongoing operation.

Colleen said the options before the Commission are to approve, approve with conditions set forth by ZA, or deny, and if denied, to specify the basis for denial.

Cookie: Regarding Matt’s concerns about a building that might take away from the community spirit. I’ve lived in five towns with under 5000 people, and in each there was a Germania Hall, constructed by German farmers in late 1800s to sing, dance.. it brought the community together. Also, the grange hall... in almost every small town there’s a facility. If anything it brings people together, same as some of the events in our town. I don’t see this facility as divisive. It’s more of an inclusive thing. If you don’t want to go to functions, that’s fine too, but for the little people who want to learn to dance, everyone else, I can’t imagine a nicer locality and building. It’s a small building. And viewshed? Much as I love Hills and Hollows at the top of the hill with its big bright sign, but it doesn’t cause problems. Change is inevitable and our responsibility is to try to change things in a general direction, but it’s not our duty to form a certain way of thinking of this town. It’s up to the people of this town. We should represent the town instead of our own fears.

Motion: Cookie moved to approve the application of CUP with the six conditions stated in the staff report introduced tonight. Colleen seconded the motion. Cookie, aye with stated conditions; Josey, no for reasons stated; Haylee, aye; Matt, no, for reasons stated in not protecting public interest and not addressing my conditions; Colleen, aye with stated conditions. Motion carried, three votes in favor and two opposed.

Curtis: #6 in the conditions reiterates a CUP can be revoked if the use doesn’t maintain compliance with the permit. Also it states that before getting a building permit all mgt plans are to be submitted.

Discuss RSTR mapping (Michala)

Michala still has questions for the county recorder on discrepancies with the mapping program and list of property owners. Les Barker not in office due to covid, so she’ll hold off for a few more days to distribute it.

Matt: Make sure the numbers you’re counting are based on home occupation at the time the RSTR was passed, June 2019. Michala said a few properties have discrepancies between the OnX information and the recorders. I’m comparing parcel numbers and trying to coordinate with written docs from recorder. All these properties are within boundaries of Boulder and divided into upper, middle, and lower Boulder.

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Update on work groups: Table of Uses and Lee Nellis procedures

Matt: The completed ToU, representing six months of work, is in Dropbox. Thanks to the working group: Randy Ripplinger, Donna Owen, Jeff Sanders, Pete Benson, Mark Nelson, Josey, and himself. Most all have previously served on Town Council, Planning Commission or the Board of Adjustment. It will be on the agenda next month to figure out strategy from here.

Colleen said there will be a June 16 work meeting with Lee Nellis to start discussing how to take the ToU and the development standards being worked and put them together. It's important to move forward on this, as CUPs use this.

Curtis: Lee has done a lot of this for different communities (reorganizing ordinances). Now we'll have the material from both workgroups. It would be important for all commissioners to find out from Lee how he approached and organized the ordinances, how do you make sure they reflect the General Plan, state statutes, LUDMA-compliance, are legally defensible, etc. At least we can get a reading on what we're looking at in organizing the material so we come out with a coherent document. Matt asked if this could be part of a regular meeting?

Lee will be on the July 9 regular meeting, but June 16 work meeting will continue with Lee as scheduled.

Upcoming business for July 9:

- Michala's mapping results
- Table of use discussion
- Discuss Nellis suggestion of modifying GP with Lower Boulder Road addition

Curtis said you look to the General Plan to construct your ordinances. The ordinance is the law; the GP guides the development of the ordinances. What Lee is bringing to us starts with the General Plan, running down through the ordinances, making sure they're compatible with state law, so what you end up with is consistent and legally defensible.

Final Public Comments

No final comments.

Colleen moved to adjourn, Matt seconded, all approved. Colleen adjourned at 9:15 p.m.

Peg Smith, Planning Commission Clerk

Date