

Boulder Town
Planning Commission
Meeting Minutes
December 10, 2020

Zoom meeting, Commission quorum present: Vice chair; Matt Cochran, Cookie Schaus, Josey Muse, and Haylee Apperson were present. Colleen Thompson and Marian Johnson were excused. Also attending: Secretary Peg Smith, Zoning Administrator Curtis Oberhansly, Deputy Clerk and ZA Michala Alldredge, Town Council Liaison Judy Drain, and planning consultant Lee Nellis.

Public zoom connections: Tessa Barkan, Rod Peterson, Steve Cox, Elizabeth Julian, Toby and Connor McFadden, Nancy Tosta, Mark Nelson, Korla Equinta, Ashley Coombs, Jacqui Smalley, Tom and Caroline Hoyt, Tina Karlsson, Phoenix Bunke, Judith Geil, Kipp Greene, Debra Oldham, Chris Donnelly, Matthew Brown, Cynthia Van der Merck, Jeremy Boone, Dale Wilson, Ken Jacobs, Ed Shure, Nehje Snow-Valin, Michael Frazier, plus two unidentified call-in numbers.

Matt opened the meeting at 6:02 p.m. Cookie moved to approve the agenda, Josey seconded, and all approved. Josey moved to approve the November minutes, Cookie seconded, and all approved.

Lee Nellis: Proposed Development Standards Review

Lee presented another hypothetical commercial development--- a Buddhist retreat and spa off Hwy 12 adjacent to Boulder Creek and Red House Farm—as an exercise to run through the Project Review worksheet.

Lee discussed criteria that might be considered for weighting a project such as the applicant’s investment in the development, their considerations for a design process and siting, and what they’ve done to blend their development into Boulder’s general aesthetic. The Planning Commission can also enforce taping and marking existing vegetation to protect it and consider the intensity of a new use, how it blends into the landscape and its compatibility with the surrounding built environment.

In this example, Lee suggested reducing parking once it’s hit the required minimum, requiring a lighting plan, adding conditions on dumpster siting, stipulating operating hours.

He’s going to amend 10g, Internal landscaping, to reduce the importance on outdoor sales areas.

The Commissioners decided they are ready for a January public hearing on the revisions and this process. Lee will take 10-20 minutes at the beginning to explain and will use the previous “Boulder Beans” commercial establishment as the example.

Public Hearing on DW Tower CUP

Matt asked the Zoning Administrator to review the project, which was initially presented at the November meeting: This 60-foot tower would replace the existing 60-foot structure. The existing UHF TV antenna would be moved to the new tower. Its 10W signal would neither interfere with other frequencies nor be affected by them. From his Staff Report, Curtis noted this

Boulder Town Planning Commission, Meeting Minutes

is a GMU zone, compatible with Public Uses and Utilities, compatible with General Plan; the applicant must secure a long-term lease from the landowner contingent on receiving the CUP. The Planning Commission can exercise its discretion at replacing this tower at the same height currently occupied. The tower offers at least three more spaces for co-locating mobile providers in addition to the microwave dish and UHF antenna. Coverage analysis as provided by the applicant indicates coverage at 180 feet higher elevation is 45 percent greater than it would be from the South Central site. DW analyzed that site for its own purposes: in terms of visual impact, citizens' expressed concerns about RF waves next to school, and coverage, they determined Thompson Ledge was a preferable location. Conditions that have been suggested include allowing a max height of 60 feet, fiber optic will be available at the site, existing tower is removed, the new lattice tower would be similar in visibility to the existing one, TV broadcast capability is reinstalled, co-location is offered to other providers including CommNet and FirstNet, tower would be painted a non-reflective rusty brown, any damage to the access road would be repaired and help maintain the road would be maintained post construction, no exterior lighting would be installed. He presented drawings provided by the applicant (uploaded in Meeting Materials on the town website).

Matt clarified that at least three additional spaces are available for other mobile providers. Yes, this would provide space, if desired, for CommNet's roaming service (currently provided on the South Central tower) as well as its contracted FirstNet/ATT service for first responders.

Cookie asked about the lighting. Curtis said it's not high enough to require aviation lights. One of the conditions was there would be no lights on either the tower or the equipment building.

With no other questions or comments from the Commissioners, Matt asked for a motion to move to public hearing. Cookie moved to close the regular meeting and open the public hearing. Haylee seconded the motion. Roll call vote—Matt, aye; Haylee, aye; Cookie, aye; Josey, aye.

Public Hearing:

Tessa Barkan: Boulder is such a unique place, a haven from cell towers and EMF waves that makes it special. I understand this is just a single tower but don't want a precedent of more and more structures like this one. There are solid studies linking pollinators and other species being affected negatively. I appreciate the clarity of the application. However, have CommNet and DW figured out the co-location? It seemed in the previous meeting that CommNet had a lot of resistance to moving. I don't think this CUP should be approved until confirmation has been received that the services will co-locate.

Matt asked Curtis to respond: The Commnet CUP application that addressed the new ordinance wasn't received until late last week. They've asked for setback and height variances. The FCC won't let you deny having a cell tower. But our new ordinance gives us latitude on their placement. If you approve this CUP, the opportunity would be extended to CommNet/FirstNet to join on this tower and you'd consider their application on that basis. If they don't accept, you'd deal with their application as a separate matter. With FCC rules, it's difficult to make one contingent on the other. If you have approved one tower in a preferred location you have considerable leverage in considering the other application.

Elizabeth Julian: What has happened with communication with the county to make sure they're buying into this. Will the entire county be using FirstNet? What buy-in do they have, if any? Our first responders have to have equipment that could be used with these towers and would the county be providing that?

Judy Drain: I'll check into this further. We need to find out what the county intends to do on this.

Boulder Town Planning Commission, Meeting Minutes

Jeremy Boone, SAC Wireless (CommNet): To clarify, the other tower is not “CommNet’s” They are a tenant on the South Central tower, with a long-term agreement on that tower, along with other providers. The other tower isn’t coming down, it’s South Central’s tower. And yes, FirstNet is supported by Garfield County.

Ashley Coombs: I saw the notice about this referred to “cell phone tower” and I wrote to Peg and Curtis about this tower being used for over the air TV. I was concerned about cell and TV tower used in combination and that it would jeopardize the TV stations. The TV tower should stay as is. If another tower is needed for cell phones, put it separately. I support having a cell tower on Thompson Ledge. I’m supporting what the TV translators said. I keep in touch with them and go up to Thompson Ledge to help them out with checking their signal.

Curtis said DW Tower had their engineering firm respond today to Ashley’s question. They offered verbal assurances that the TV and microwave wouldn’t interfere with each other. They are separate types of waves. Same if other cell providers were up there.

Anselm Spring had submitted a written comment (Peg read): I oppose the cell tower for many reasons I can provide if needed. I do not give permission to use my road unless provided with profound and scientific research that there are no health threats to anyone from these radiated waves from the tower. My road cannot be used for any such purposes.

Curtis: DW tower researched the easement on the road to which the landowner has assured access. This was determined in a court proceeding years ago. Dale Wilson said he confirmed they have legal access on the road.

With no other comments, Matt asked for a motion to close the public hearing and reopen the regular meeting. Haylee so moved, Cookie seconded. Roll call vote: Matt, aye; Haylee, aye; Cookie, aye; Josey, aye.

Decision on DW Tower CUP

Matt: Legality of the road was covered. Other questions brought up were health concerns and I don’t know if there’s any data on that. Feel like pulled between competing interests of the companies. Given the conditions presented, is the commission interested in imposing any other conditions?

Cookie: I have no research on the medical part or health effects on bees and others. DW has been so forthcoming and gone down the list of our requirements and I like that they’re willing to and have capability of sharing their tower with other businesses and seem open to it. I have no problems with giving an approval. For the 1st responders, it needs to be looked at individually. It seems to be a matter of our responders getting a microchip for their cell phones. That will need to be followed up on, as Judy suggested.

Haylee: I have nothing to add to the conditions. They’re well written.

Josey: I’m in the same boat.

Matt: The conditions seem reasonable to me. We’ll discuss the other application separately. On this tower, yes, they’ve done their due diligence and possibility of putting other services up there seems important. The best would be one tower with all services on there and away from the school and the church. This leaves options for cell companies to negotiate what they need to. I’m supposing the first responder stuff can be worked out. I agree with the conditions, have nothing to add.

Matt moved to approve the Conditional Use Permit for DW Tower with the conditions noted in the staff report. Cookie seconded the motion. Roll call vote: Matt Cochran, aye; Cookie Schaus, aye; Haylee Apperson, aye; Josey Muse, aye.

Boulder Town Planning Commission, Meeting Minutes

Staff Report

Matt asked Curtis to review the CommNet CUP application status. Curtis said he'd received their initial application Sept 12, to which he responded to SAC Wireless on Sept 30 noting the changes included in the new cell tower ordinance that need to be addressed in their application. Their revised application was received last week, too late for notification for public hearing. There are two things out of compliance with our ordinance: first height limitation of 50 feet. There is no pre-established use at that height, as the current tower is 30-35 feet tall. They are applying to construct a 55-foot tower, five feet higher than the ordinance allows. Second, they would also have to request a variance on the side setbacks. Where they want to stay with app as written the question for you is do you want to go to a public hearing in Jan or first have the variance question addressed? Usually, a planning commission wants variances handled. It's your decision.

Matt summarized: height restriction and side setback related to ratio of height. Josey concurred that the variances should first be handled by the Board of Adjustment before the Planning Commission considers the application.

Cookie also agreed, saying there is a limit of 1-1/2 times height of tower to a road, but also 2-1/2 times the height to a property line. "I don't know how that could ever work." Also, there's \$10K security funding? Maybe that's for South Central? The tower is over 50 feet tall. And I don't see evidence of them exhausting all their options of examining other locations.

Curtis said it's within the Planning Commission's purview to consider all aspects of co-location, etc., but with a cut and dried difference in a dimension or a setback, that's a variance issue.

Matt made a motion for a resolution that CommNet seek a variance with the Board of Adjustment before consideration by Planning Commission. Cookie seconded. Roll call vote: Matt, aye; Cookie, aye; Haylee, aye; Josey, aye.

Jeremy said their application did request the reliefs that the variance requires. Also, at the time of application, another suitable tower was not an existing reality and thus was not addressed.

Update to Smalley Arts and Ag CUP:

Curtis said one of the conditions approved with the CUP was that their final design plans would be submitted to the Planning Commission for review prior to obtaining a project permit. Architect Ed Shure presented the drawings and photo rendering of the project (uploaded to Meeting Materials on the town website). He summarized each sheet in detail, noting their compliance with ordinance requirements on setbacks, landscaping, ingress/egress, parking, grading, fencing, septic, lighting and dark sky compliance, etc.

Korla asked about RV parking and vehicle turnaround. Curtis said this is addressing conditions imposed under the existing ordinance.

A planting plan was presented that included fast growing deciduous trees of two-inch caliper and six-foot evergreens for screening and privacy from the highway. Other planting will be natives and low water use plants. Jacqui wants maintenance for the building and grounds to be handled by hiring a local person or company. Irrigation water will come from BCC ranch.

Materials and colors are to match the red color of the existing barn, corrugated metal for roof, some concrete block showing at ground level. Inside at lower level will be a warming kitchen, pottery lab, art studio, a bathroom stall. Events and gatherings outside are not authorized. The glass entry to the facility faces north and is not visible from road. The red barn blocks that view from the Flake property as well. The south side would be closed to block light for evening performances but open during the day to allow enough light for performances.

Boulder Town Planning Commission, Meeting Minutes

Matt asked about sound trespass. Ed said a sound designer will be address those issues. The exterior sliding barn-type doors are designed to help muffle sounds from the poetry readings and any musical events.

The Planning Commission had no questions. Curtis said any subsequent questions can always be addressed by the Planning Commission, including during actual use if any conditions are violated. That's an ongoing capability.

RSTR Mapping Review

Michala presented the data that was compiled with two online mapping programs. The intent was to identify primary residences in Boulder in order to quantify the number of residences in "Upper," "Middle," and "Lower" Boulder for RSTR designations. Michala said Parcels.utah.gov is updated yearly, which they're doing right now. She will wait for the new version to finalize.

Matt said property is constantly changing, so we'll need to keep updating. But he wanted the numbers applicable at the date the RSTR ordinance was passed (June 2019).

Upcoming Business for January 14, 2021

- Approve December minutes
- Public Hearing on new Development Standards
- RSTR map update on properties

Final Public Comments

Tina asked about variances. Peg suggested handling that outside this meeting.

Haylee moved to adjourn the meeting; Josey seconded. All approved. Matt adjourned the meeting at 8:28 p.m.

Peg Smith, Planning Commission Clerk

Date