

Boulder Town
Planning Commission
Meeting Minutes
July 8, 2021

Zoom meeting, Commission quorum present: Chair Colleen Thompson, Vice chair; Matt Cochran, Cookie Schaus, Josey Muse, and Haylee Apperson. Alternate Marian Johnson was absent. Also attending: Secretary Peg Smith, Deputy Zoning Administrator Michala Alldredge, Town Council Liaison Judy Drain, Planning Commission consultant Lee Nellis.

Public: Jen Bach, Bill Muse, Mark Nelson, Kipp Greene, Elizabeth and Troy Julian, Jim Catmull, Phoenix Bunke, Jane Phillips, Steve Cox, Ashley Coombs, Nancy Tosta, Tessa Barkan, Steve Hughes, Sadie Blue Pence, Geneen Haugen, Judi Davis, Elena Hughes, Dan Pence and Jennifer Geerlings, Dylan Rose Geerlings, John and Susan Kelly, Judith Geil, Gladys LeFevre, Ray Gardner, Andria Rice, Donna Owen, Ray Nelson, and 435-618-9535.

Colleen opened the meeting at 7:00 p.m. Colleen moved to approve the agenda, Matt seconded, and all approved by voice vote. Colleen moved to approve the May minutes, Matt seconded, and Colleen, Matt, Cookie, and Josey approved; Haylee had not been present. Colleen moved to approve the June minutes; Matt seconded. All approved except Haylee, who had not been present.

Lee Nellis: Legislative Amendments, Community Meetings; CUP Revisions, and Questions for RV Park Hearing

Lee had read through “the prolific changes in local planning law approved by the Utah Legislature last session.” The broadest impact is the requirement that all communities must allow internal accessory dwelling units (IADUs). Boulder’s 2019 ADU ordinance needs to be amended to comply. He also said there needs to be broader discussion on the GMU zoning district—is GMU primarily residential or primarily ag? It was probably intended to be agricultural, but by allowing the five acre lots, it doesn’t function that way.

Lee said though all landowners are allowed an IADU, existing ordinance already requires that use to be 30 days or more, so no short-term rental. Though IADUs are permitted, the town can impose specific standards. One important procedural thing is that you’re allowed to record a notice whenever you approve a permit for an IADU and that notice is evidence the owner understands they can’t rent as a STR. It’s critical to record the notice thing if you want to enforce short-term rentals.

For standards, the town can prohibit IADUs in mobile homes (trailer-on-chassis, not modular home). Can require bedroom egress. Can prohibit IADUs on parcels smaller than 6000 sq ft. Can prohibit an IADU on a demonstrably failing septic tank (this should be done). IADU must fit into existing home footprint, not as a new addition for that purpose. An additional parking space can be required (and this should be done. (See Meeting Materials for Standards list.)

To clarify, the definition and permitted right to an IADU is set by the state. A town can only set its development standards and record notice (town clerk) that the IADU can’t be used as an STR. (The town clerk records a notice with the county recorder saying the owner is aware of the STR restriction unless they apply through the existing RSTR CUP process.

Lee will return with the draft amendments and will add the language for the standards and enforcement procedure under the building permit language in the ordinance.

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Talking about external ADU—permitted by CUP in Boulder, 2018-4--- it will have to be changed to be consistent with state law, starting with definitions. Recommend eliminating or modifying vague terms: “nuisance” needs to be better defined, parking requirements in one place, Table of Uses amended--- won’t change, just better organize. Biggest issue is the distinction between guest units and rental units ---as written isn’t enforceable or within town’s authority to regulate. Lee suggested removing that language and replacing with size limitations of external ADUs, without the guest distinction. If goal to provide more affordable housing, do you want to require a CUP or have them used by right, same as IADUs. You’d still require extra parking, require proof of working septic system, size and proximity limits (which is probably the core of what you wanted). Josey liked suggested language of proving septic capacity. She thought the standards would fit within the building permit process and not require a CUP at all. Cookie agreed that CUP wouldn’t be necessary.

The Zoning Administrator would approve the building permit; the Planning Commission doesn’t need to deal with it. Lee said these are great for family use, and if owner wants to rent for 30 or more days, maybe to someone working in Boulder, it might help provide more affordable housing without building apartment structures or changing density much. Matt had no objections.

Lee: there are other state requirements, mostly dealing with subdivisions to take up next. Most importantly is the ability to regulate impacts of IADUs through standards and to say ‘no’ to short-term rental except within terms of our ordinance. This will be made crystal clear.

Updates for August: Appendix: repeals old, amends Use Table, amends Parking Table, adds proof of ownership to CUP procedure; repeals section and replaces Section 10 --- only one ADU on parcel regardless of which type; limits on occupancy of 30 days or more, max size from old ordinance, fit in footprint existing, within 100 feet of primary dwelling, wastewater system, amended definitions--- accessory building-- if I were a rancher, I might need to be bigger than 1000 sq ft. Now is limited to 1000 sq ft and no kitchen. On a guest ranch, if you added a dining/rec hall with kitchen on a guest ranch it would be prohibited and this doesn’t seem reasonable. Defined ADU as commercial. Clarify external and internal. Simplify def of accessory. Def of Mobile Home currently isn’t consistent with state law so replaced. Def of primary dwellings has to be added; followed state law. And will add the enforcement procedure and recording that notice.

Josey: Question on RV ordinance: what is a RV condominium? Lee said instead of renting a campground space short-term, it’s been subdivided into individual parcels and use condo rules to get around zoning regs. I wanted to clarify you can’t do that unless in compliance with the subdivision ordinance. There is a state requirement to discuss condos. Like a time-share. We can talk about this more in subdivision ordinance. For time being, say RV condos are not allowed.

Lee agreed that his references are to old ordinance chapters but they need to reflect the codified version moving forward. Will work up EADU, can go to hearing after August. SD changes by Sept.

Re: RV ordinance: all changes are underlined; deletions are shown with reference. Size and density of campgrounds are clarified; setbacks were increased; number of units and campsites/acre is now clear; access, solid waste, RV condo description, and requirement for onsite host have been added.)

Public Hearing, RV Park/campground and Guest Ranch ordinance

Pre-hearing questions:

- Donna Owen: I don’t understand food services. Is having a stove and refrigerator a food service? Colleen said she assumed food service was provided by the ranch. Needs definition?
- Donna Owen: Why can’t cabins include cooking and bathroom? Cookie said a “kitchen” includes a sink. A coffee pot and maybe a fridge is pretty standard and this is more what was envisioned. These cabins would be mostly overnight We didn’t envision a full-on kitchen.
- Donna Owen: Why only 10 rooms on 55 acres? Guest ranch seems so limited compared to RV parks. Josey said guest ranch not required to be in commercial zone and campgrounds are.

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Colleen moved to open the public hearing; Matt seconded the motion. Matt, Josey, Cookie, Haylee, and Colleen voted to open the public hearing.

- Judy Drain: I think it would be good idea to define food services. That would put an end to the question and for future reference.
- Donna Owen: 10 rooms for a guest ranch is limiting, need to specify what kitchen facilities are allowed, and define what is meant by food services.

Hearing no more request for comments, Colleen moved to close the public hearing. Matt seconded. Matt, aye; Haylee, aye; Josey, aye; Cookie, aye; Colleen, aye.

Post-hearing discussion: Josey said food service should be defined as meals must be/can be provided but should not include a restaurant. Matt agreed: option for food service for guests onsite but not open to the public. Colleen agreed. Get Lee to define food service. Option to have food service onsite as service to guests. Not open to public. And amend the condo language.

Colleen moved to approve Ordinance 2021-5 with proposed changes to define food service in guest cabins and to specify RV condos are prohibited. Matt seconded the motion. Voting aye: Matt, Josey, Cookie, Haylee, and Colleen.

Ray Gardner, RV Park CUP Concept Discussion

Ray displayed his concept drawings showing campground layout and location—about a mile north of cemetery, west side of Hwy 12, at the base of his private property. He would be developing this at the south end of his 170-80 acres; the closest residence is his own. The area hasn't been in ag production for some time. The developed site would be about three acres, envisioned with a traffic loop. Each dot represents a hookup. He said the septic engineering will drive the final design as the area slopes to the south. He'll install full hookups with electricity. (The drawing shows the existing power line and a water line right next to it--- he'll observe the right-of-way for both.) Cookie asked about Forest Service land. Yes, there's about 210 feet between state right of way and private land. Ray spoke with Terry Delay, FS manager. As long as there's no excavation, the right of way could be improved with gravel. Ray said he hadn't sketched in a road to show access to the tent sites but they're along the row of trees by the stream. The area is mostly blocked from highway view with forest land on three sides. Ray said he'd prefer seeing people camped in campgrounds with facilities than anywhere off the road. "It's something needed in the community. The design is in progress; feedback is welcome."

Steve asked how far the creek is from the bathhouse: As drawn, a couple hundred feet, but it depends on the septic engineer. Peg asked about a unit for an employee. Yes, that's his intent, probably a separate structure. It would be an expense for six months to a year. This adds quite a bit to the investment. It would be a consideration to limiting number of tent sites and hookups.

Colleen said 2021-5 allows an RV has as manager housing, not counted as a rental space.

John Kelly asked if LP gas storage is onsite? Ray said no.

Judith: Culinary water? Ray said Boulder Farmstead said commercial hookups are available.

John Kelly: Is there a limit on the duration of a stay? Colleen said if Ray goes under the proposed ordinance, there is a limit of 180 days in one 365-day period. Reason is the campground could provide seasonal housing. John asked if it might fill up with only workers and not tourists?

Donna Owen: Ray needs to make money and his daily rate will probably factor people out for more than a few days at a time. You can't look at this as housing; you'd have to put in a mobile home park. The daily rental will be prohibitive to most people working in local business.

Matt: The new ordinance isn't passed yet and it does have more conditions than the current version, but as shown in the design presented, it fits into the new ordinance in many ways: the 20-site limit, screening from the highway, the location is well-picked.

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Cookie: I think this fits well with the General Plan. We're trying to keep Boulder's ag healthy and to back up ranchers as much as we can. It's a great beginning and I'm curious to see how it develops. Colleen said she liked the plan too.

Ray asked about any concerns that jump out. Matt asked about the highway access. Ray said UDOT given email permission for access off Hwy 12 at that location for a commercial venture. There's a fair amount of work to build up the barrow pits. There's also some trees growing under the power line to be trimmed so motorists have a clear view. UDOT said more hookups would probably require a traffic study as well as a potential turnoff, so Ray said he'd be motivated to stay under that limit.

Elena Hughes question on subdivision requirements

Elena Hughes and Dylan Geerlings read their statements (see Meeting Materials). They have an option to buy 10 acres of Lower Boulder property but wanted some indication that they could divide it into two parcels given that existing easements cut into it's being fully 10 acres.

Josey said their vision aligns with General Plan, but the Planning Commission has to follow the code. The Planning Commission does have some latitude with 4 or fewer lots wherein the owner encounters an "undue hardship. However, in the case of buying a lot, this doesn't fit her definition of that. In both ZO and SD ordinances, min. lot sizes, exclusive of road easements, are specified. Dylan emphasized this was a "driveway" not a road. Josey agreed it's not a town road but is a right of way and easement. "We'd be setting precedent for not following the ZO."

Matt: I'd like to promote [their plan] as following exactly what the GP intends. How do we define where we have leeway? Peg asked if this unique situation on one lot might be appropriate as a variance? Josey concurred. Cookie asked if the option deadline could be extended. (Probably not possible). Colleen noted the .7 acre lot that cuts into their southern boundary but this isn't available for adjustment. Josey encouraged going for a variance making sure that access to all lots is included.

They concluded discussing dividing a 10-acre lot: with road frontage, a lot could be split into two five's but in other cases involving easements, over 10 acres may be required to divide a lot. Elena asked if "undue hardship" is defined. This seems like one.

John Kelly asked how the easement was recorded and who it was granted to. Josey said the original vellum shows "40-ft private right-of-way."

Discuss upcoming business for August 12

Nellis amendments, Community meeting on capacity/development, RV CUP, Deer Ranch?

Final Public Comments

Elena: Why are your hands tied? The ordinance gives you latitude. Matt said variance seems better.

Sadie Blue Pence: This is my first meeting to watch. As one of the young people trying to make a go at a business here, why is it so much easier to do 20 RV slots than dividing 9.9 acres to two people trying to live here. Why haven't we made it easier for people who live in our community?

Judy Drain said she had checked with the county on the Bryce Canyon water study: the state paid for their study of the aquifer.

Colleen moved to adjourn. Cookie seconded; all approved. Meeting adjourned at 9:28 p.m.

Peg Smith _____ Date _____