

Boulder Town  
**Planning Commission**  
**Meeting Minutes**  
**August 12, 2021**

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

Zoom attendees: Mark Nelson, Shawn Owen, Tina Karlsson, Kipp Greene, Donna Owen, Phoenix Bunke, Steve Cox, Ashley Coombs, Dan Pence, Jennifer Geerlings, Dylan Rose Geerlings, Ray Nelson, Elizabeth/Troy Julian, Korla Eaquinta, Ron Johnson. In person: John Veranth, Alyssa Thompson.

Colleen opened the meeting at 7:05 p.m. Colleen moved to approve the agenda, Matt seconded; Matt, Haylee, Marian, and Colleen approved by voice vote. Colleen moved to approve the July minutes, Matt seconded; Matt, Colleen, Haylee, and Marian approved.

***Lee Nellis discussion: Legislature-mandated amendments; development standards and CUPs; capacity “build-out”***

While waiting for Lee to join the session, Colleen presented Lee’s “maximum build-out” memo and Matt reviewed the reason he did it. It comes from realizing beyond our General Plan and development standards, Boulder Town probably has a limit on how much development can actually happen. We’re starting to initiate a town discussion on what that limit might be: water, land, other. It’s a hard discussion but crucial to obtain real data for the planning that is supposed to happen. Colleen tabled discussion on it until Lee and the other commissioners could be present.

For next month, Lee will talk about the mandated, legislative changes that need to be incorporated in the Subdivision Ordinance (and maybe parts of the Zoning ordinance.)

***Discussion on Hills and Hollows commercial development***

Before discussion started, Haylee disclosed that Magnolia’s LLC intends to run the proposed burger enterprise at H&H. Colleen also disclosed her several year and current employment at H&H.

Shawn provided background on himself and on the proposed new use: For the past 25 years he’s built and operated various food establishments. He started at Hells Backbone Grill. His local interest is promoting sustainable jobs in Boulder by providing high quality, locally raised beef. This led to wanting to sell the product locally. Initially wanting to sell burgers from the store, he realized better hooding would be required than was possible to set up inside. Hence, the food truck.

The company that owns the property known as H&H, is Balancing Rock, LLC, which maintains the taxes, insurance, utilities for the property and leases space to the other businesses located there. We’re currently at the phase of building relationship with health department and have been working with Utah Dept of Ag. In anticipation of upcoming inspections, they’ve done preliminary checkouts on the truck, water, septic, fire suppression. The proposed business is a burger take out from a food truck, though the truck won’t be “mobile.” Operation of the business will be leased out to certified food managers, as Haylee mentioned, still working through the process.

## Boulder Town Planning Commission, Meeting Minutes

Colleen started discussion on the Planning Commission's process, which is also in flux in terms of considering conditional uses. Peg acknowledged the confusion of the codified ordinances--- inclusive of all zoning and subdivision ordinance amendments through January 2021--- that do not include the since-approved Zoning ordinance Amendments, 2021-2. Those amendments, listed on the website under the heading "Approved, Pending Codification" incorporate the new Table of Uses, new definitions, and the revised development standards and checklists for evaluating conditional uses. The CUP application form itself also needs to be revised to match the new process.

Haylee also said neither of the current definitions for food establishments--- "mobile food vendor" and "restaurant" --- do not cover the situation presented by the burger plan. Possibly a new definition is needed? More input is welcome. Shawn said in his experience the main difference is the way gray water/waste water is handled and the location of food prep; mobility or not is the dividing point.

Lee was able to join the discussion at this point. On parking, Lee said to look at the current business and evaluate impact: how much additional parking will be generated by the new enterprise? What determinations had the town made earlier? He said with restaurants, parking is generally determined by seating space. If they're not adding to the space in which they serve, regardless of what's being served, it may not change the parking requirement.

On "applicant", the owner is responsible for obtaining permits and ensuring compliance. A lease agreement with the lessee might indicate shared responsibility, but any government interaction will go to the owner. Owner and lesser can have any relationship they want to but from the local government's perspective it has to have a sure and certain person who is responsible and that's the owner. Zoning is about real estate, not a business entity. The owner of the land obtains the Conditional Use Permit. Balancing Rock, LLC is the appropriate applicant for a CUP.

Items on the commercial development standards:

- Food truck will be sitting on a concrete pad; storm water drainage is being engineered.
- Utilities will be hooked up by licensed contractors.
- Parking --- you only count the seating area and if the use increases that need. A drawing of the parking on the property is needed. If H&H wants to expand parking, then that should be shown on the application's map.
- Lee said all these standards should be considered in relation to impact of the new use on the existing use. Lee would want to see a drawing showing where the food truck is, what surface it sits on, how is it existing sewage, etc. The important questions are how the change impacts any of these standards. Does the installation of the food truck change the dimensions of the what's being used now? Does it make it closer to property lines and affect setbacks? If you're adding pavement or grading the land, you should say whether you're affecting drainage, or disturbing vegetation, for example. Practical reality: how does the change interact with these standards? Pictures would make it easy to answer the questions.
- Is there a new need (or a plan) for buffering and screening?
- The nuisance standards are probably unaffected.
- Disposable food container requirement needs to be complied with.
- Signage, if changed, needs to be addressed.
- Operating hours
- Truck, treat like a building addition and design standards. Again, pictures are handy.

Lee says this sounds quite straightforward. The majority of these standards, assuming no change to current use, can be checked off as non-applicable.

Alyssa asked about disposable food containers and the wording in the ordinance. Lee said this was a concern about disposable food containers contributing to litter. Can applicant comply with this or not? Applicant can propose how they comply with this and all the standards. Alyssa said if it's called

## Boulder Town Planning Commission, Meeting Minutes

a mobile food truck it can comply with the disposal food container problem but it should amended moving forward. Shawn said

Lee: Treating this as a restaurant simplifies its compliance with the checklist, with the exception of the food containers. He offered two ways to deal with containers: Best way is for the operator to figure out a way to serve food, like on trays, that aren't disposable. Not so good would be amending the CUP of the original use allows use of previous food containers. I'd challenge the applicants to show how they're complying with the spirit of the standard.

Lee said it can be an amendment to "existing" CUP. It still has to go through the standards and comply. Also add the pizza business at the same time. Your motion would be "to amend the permit .." Food container standard didn't apply to the original to let it slide, but better to address it straight on.

Lee: We live with history. The process 30 years ago was different. I'd bring this in as an application for an additional use to an existing business. Treat it as an addition to a permitted commercial use, whether a CUP exists or not. Run it through the standards and approve if it complies. The applicants understand now what is applicable on the checklist. Invite them to figure out a way to comply with the food container bit.

Lee: need to deal with Internal Accessory Dwelling Units (IADUs) to meet changes in state law, but should we also bring in the Wildfire ordinance at that time? Question: existing zoning easily allows for an additional 450 dwelling units in Boulder. Is that ok or not? If there are concerns, then we'll get into a bigger discussion where the whole Wildfire thing can be integrated. Have to talk about changing zoning or not given that build out number. In September people should come prepared to get into the Build-Out memo and the numbers. What types of changes might be needed?

Lee: We need to facilitate as best we can things that are reasonable.

### ***Upcoming business for Sept 9***

Expected business would be the amended CUP for Hills and Hollows, Deer Ranch subdivision (pending documentation), mandated subdivision and zoning amendments (Lee), build-out memo, possible Ray Gardner RV park CUP.

### ***Final public comments***

John Veranth: Thank to Planning Commission support staff for getting all the ordinances on the website. It's helpful. As next door neighbor to HnH, I consider this a valuable resource for the community which needs support to be successful.

Tina Karlsson: Last meeting, ordinance #50 was referred to. I was curious about it and did some research on it. It was put in to deal with easements and road development in a subdivision, same issues being fire equipment access, having the take responsibility for their roads. Kings Estates was the instigator of that conversation. I question if that's a needed requirement now. It was attached to the original SD ordinance. Because you're looking at this ordinance again, maybe the definition and requirements of those standards can be examined--- the matter of an easement subtracting from actual acreage of a piece of land. Also, if a developer is dividing land and not allowing access to another piece, that was a problem. We want to focus on our General Plan and whether our regulations provide what we hope. Also, "driveway" is unclear. On Kennedy's subdivision, if there were a shared driveway coming off Lower Boulder, that would have been nicer than each separate driveway access.

Colleen moved to adjourn, Matt seconded, and all approved. Meeting adjourned at 8:58 p.m.

Peg Smith \_\_\_\_\_ Date \_\_\_\_\_