

Boulder Town  
**Planning Commission**  
**Meeting Minutes**  
**September 9, 2021**

Zoom meeting, Commission quorum present: Chair Colleen Thompson, Vice chair; Matt Cochran, Cookie Schaus, and Haylee Apperson. Josey Muse is absent; 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.

Attendees: Mark Nelson, Shawn Owen, Tina Karlsson, Steve Johnson, Donna Owen, Phoenix Bunke, Steve Cox, Ashley Coombs, Dan Pence, Jennifer Geerlings, Dylan Rose Geerlings, Ray Nelson, Elizabeth/Troy Julian, Korla Eaquinta, John and Martha Veranth, Alyssa Thompson, Dave Conine, Nancy Tosta, Tessa Barkan, Gladys LeFevre.

Colleen opened the meeting at 7:00 p.m. Colleen moved to approve the agenda, Matt seconded; Matt, Haylee, Marian, and Colleen approved by voice vote. Colleen moved to approve the August minutes, Matt seconded; Matt, Colleen, Haylee, and Marian approved.

There were no initial public comments.

***Lee Nellis: Required Subdivision Ordinance amendments; Build-Out Capacity discussion***

Starting with the Buildout memo, Lee wanted to find out the commissioners preferences. Development potential has been discussed for about a year; Commercial uses have largely been addressed. The bigger potential is residential development. Looking at all parcels in Boulder, Lee found about 20 currently platted but undeveloped lots, about 30 non-conforming (under 5 acres) lots; but the greatest potential is the undivided vacant lands, his gross estimate of which yielded 670 potential lots. Once streets, utilities, and natural barriers are subtracted, the total goes down to about 500 lots. Of those, assume some commercial areas, so the working estimate is 450 new residential lots, with about 90% of those on currently irrigated land. Talking with Utah Geological Survey, he found out there are no geological studies on ground water and little on surface water. He suggested adding to the General Plan request for a study on groundwater sufficient to support 450 new wells/hookups as well as the impact of 450 new septic systems on that groundwater resource. The Planning Commission's challenge is to consider a future Boulder with 450-480 new lots--- if you like that idea, you don't need to do much. If not, there's a big discussion to be had.

Matt thought the water supply determines the limits of development. Until we have that information, how do we plan accurately for the future? That's baseline limiting factor.

Cookie asked if Lee had talked with Randy Catmull (Boulder Farmstead, culinary water system) Lee thinks water supply study should be done by Utah GS or other comparable organization. Distribution and capacity limitations named in GP, but currently few restrictions on anyone sinking a well.

Colleen said septic situation is what bothers her. Everyone has their own septic system in town, and what does that do to water quality? Also, we're realizing in the next decade that a lot of land could change hands. Nearby towns are changing their ag zones to residential. What is our future? Haylee agreed that getting the information on water is pertinent to move forward.

## Boulder Town Planning Commission, Meeting Minutes

Colleen: I'm from Boulder City, NV, outside LV. It had a limited growth ordinance and has avoided the type of growth that happened in Henderson and LV. It's possible.

Marian Johnson also agreed. She said Boulder residents have already indicated they want to keep a smalltown feel. And studies definitely need to be done on water and septic capacity.

Matt asked about advising the town to do a water/septic study. Lee said it can be requested. USG would likely have a long wait list, even if money were in hand. There may be some grant possibilities to help with research; the state may provide a match with UGS. But can you complete a groundwater study before someone proposes a substantial subdivision? Could you preemptively change zoning density? Or are you willing to impose a moratorium (on all land use applications) until a study is completed? Matt asked if Lee has seen a moratorium enacted. Lee said he has seen them successfully defended. However, can you hold to it? Blocking an outside, big developer is one thing but what about a resident that everyone knows and likes who wants to create one new lot?

Lee said downzoning is more complicated and controversial but it affords more future stability if you're satisfied with the results. Which controversy and which risks are you willing to live with? There's no planning science on the direction you take, only assistance with the path you choose. But you are looking at a huge change in the character of the community if you don't do something.

Lee said there are different versions of downzoning: simplest way to protect character of Boulder is downzone the irrigated land substantially and leave unirrigated more intact. You can allow flexibility on the 5-acre lot size to let people build a little bit tighter. The most important element is the irrigated lands that you'd want to protect. The ag owners may feel targeted, but downzoning would protect Boulder's most critical resource, while allowing or transferring development rights to non-irrigated land. Maybe the potential for contamination may outweigh the water supply issue. Or else you could comprehensively downzone everything to 20-acre lots though that's less defensible in that it doesn't allow you to consider different characteristics of properties. But downzoning would allow some development while buying time to complete the study.

Steve said he's been in touch with Jones and DeMille Engineering to talk about a ground water/septic study. Their figure was \$30K, with the possibility of some infrastructure grants from American Rescue Plan. They would need to know our parameters of such a study but they're familiar with Boulder, worked with Boulder Farmstead. The Planning Commission should come up with questions you want answered. There's money right now.

Lee will provide a list of questions for them, and now is a good time to get funding. A private firm could start more quickly than the state. In the meantime, do you want to let the ordinances stay as they are or take a step toward restriction?

Gladys is concerned about limiting property development. She said no one can make money in agriculture. Concerning housing, guest ranch, and RV park, maybe we need to be more flexible about employers who want to provide employee housing? Guest ranches may be a way to create income on some of the ag land. Maybe you can expand the number of cabins you allow and allow cooking facilities. RV parks are a huge investment--- but is it economically feasible year-round? Why require an onsite attendant? If you have a bathhouse anyway, what about a public laundry? What about allowing storage sheds? How can we make ag land support itself, because it won't be by agriculture.

Next topic Lee addressed was a portion of the subdivision ordinance prompted by a discussion a couple meetings ago. He said ordinance language written years ago deducts easements from the parcel. This is unusual. So he drafted an amendment that's typical of other communities: easements would no longer be deducted from a lot. Private streets still should be discussed, with a separate definition added if that's what's wanted. This brings Boulder back into line with the way most communities handle it. Right now, the ordinance includes two definitions of "street" and no definition at all of easements, plus a vague power given to the Planning Commission to grant exceptions for small subdivisions where there might be a "hardship." However, the standard way in

## Boulder Town Planning Commission, Meeting Minutes

Utah of dealing with hardships is through a variance. A developer must provide a street plan, showing how it extends or matches existing streets or otherwise fits the terrain, which can be reviewed by an independent firm and UDOT (if required). This removes the current ambiguity and inconsistencies with state law.

Lee suggested urgency in fixing the easement issue, saying this provides relief to people in process right now. There can be ongoing talks and later adjustments regarding private roads. And driveways don't belong in the subdivision ordinance anyway as they're part of a single lot. Matt made a motion to hold a public hearing on the proposed Subdivision changes in October. Colleen seconded the motion. Cookie, Haylee, Marian, Colleen, and Matt voted aye.

For next meeting, Lee will provide a memo on the build-out options he discussed, looking to the commissioners to provide some direction next month. And he'll send a list of hydrology questions to continue conversation and start finding money.

### ***Public Hearing for Balancing Rock, LLC Conditional Use Amendment***

Initial questions, pre-public hearing:

Ray Nelson: From Plat A map, wondered about no signatures. Is it in progress? Concerns about my well and its proximity to their septic. DEQ states no closer than 200-foot radius and I'd like that recorded on the plat along with a statement saying wouldn't happen in the future either. Michala said this is just an updated CUP, not a subdivision. Shawn said this map is just to show locations of food truck to everything. Ray asked if this is intended as an official plat map; Shawn said no.

Colleen moved to open the public hearing; Matt seconded. All commissioners voted "aye."

John and Martha Veranth: Owners of adjacent property. We're very supportive of HnH. What Shawn calls "north driveway access" is actually on my property. I'm willing to do an official easement, we haven't actually recorded it. I'm allowed people to park there but should be noted by the Planning Commission. Also looking at letter from Dept of Health, it's very ambiguous. Between that and Ray's concern about proximity of septic to well, we need to address whether it meets the ordinance. Shawn responded that the septic had been checked and that it is outside the setback from the John continued: The system doesn't seem to have overloaded and new use probably won't affect that. Septic is important for public health and has to be done right. That's the PCs job.

Ray: I've looked into septic system over several years. They've done several repairs. I've asked SWPHD and DEQ. DEQ codes say any additional affluents sent into system are supposed to be engineered, permitted, and inspected. DEQ said yes, but we don't enforce that. But town could enforce. Over the years, they've added showers, restaurants, an apartment, and now more effluent from the food truck. No drawings, no engineering. Maybe it's time to look into that. The SWPHD letter assumes no responsibility. Maybe it's time for Boulder to step up and look at septic systems and enforce laws that DEQ isn't enforcing.

Colleen moved to close the public hearing, Matt seconded. All commissioner voted "aye."

### ***Discuss and vote on H&H Hollows Amended CUP***

Cookie asked about the property itself. Shawn said Balancing Rock, LLC is the owner of the entire property: H&Hollows with its kitchen, the mobile home, five rentals, the restrooms? Shawn said two septic systems are in use right now, with plans for a third if needed. Cookie asked about the 36 parking areas shown but wondered how the gas pump usage figured in. Shawn said the parking spaces were shown as if they were lined out.

Colleen said to remember the discussion from last month, that nothing at HnH is really changing or being added on other than the food truck itself. Regarding the septic situation, she said she "wasn't thrilled" with the letter from SWPHD, they didn't indicate the use shouldn't be allowed due to septic.

## Boulder Town Planning Commission, Meeting Minutes

Colleen also said the easement situation isn't part of this application either and should be addressed separately between the landowners.

Haylee stated that she was recusing herself from voting. There is a possibility that Magnolia's would be running the new truck if all goes through.

John Veranth said he simply wanted to note that three of HnH parking spaces are on his land and he didn't want them seemingly indicating on a town document that they belonged to HnH.

Alyssa said to use Balancing Rock, LLC, not Hills and Hollows for official purposes.

Elizabeth said the Planning Commission should research Ray's concern and the letter from about the septic system before taking a vote; although no real change to the property, traffic will increase because of the food truck and regular hours compared to the weekly pizza night. Shawn said he'd looked into the septic system, has looked into the load balance and said a new septic would be the same size, they would continue to pump it out the same. Michala suggested evaluating the conditional use based on actual traffic, assuming it is approved. Ray said it wasn't true effluent hadn't increased and noted new showers and new living space and now new food truck. No records.

Colleen moved to approve an amended CUP for Balancing Rock, LLC. No one seconded. Matt made a motion to approve the amended CUP for Balancing Rock, LLC, conditional on receiving paper evidence of the pumping schedule on the septic system. Marian seconded the motion. Matt, aye; Marian, aye; Cookie, aye; Colleen, aye.

### ***Upcoming business for October 14***

- Commission decision on handling build-out--- moratorium, down-zoning, or nothing?
- Public hearing on Subdivision amendments (easement matter).

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

Elizabeth Julian: I support additional businesses. My intent was to bring attention to consistency. It's important to strive for consistency on all issues across town business.

Korla Eaquinta: We had to dig a well at our cabin. I'm now looking a dozen septic tanks uphill from my well, so I understand the concerns. Please keep the water issues in mind as you move forward.

John Veranth: I also support additional business but we also need to not play favorites when we like a project and enforce ordinances when we don't like it. In the codified ordinances, Chap 50, 50.01: *"No construction involving the installation or modification of an individual wastewater disposal system in the town shall begin until plans and specifications for the individual wastewater disposal system have been reviewed and approved by the Southwestern Utah District Health Department and a copy of its permit received by the town."* The town needs a procedure for legalizing legacy systems that weren't properly documented or approved. This would be a way to avoid overburdening an applicant while not ignoring the ordinances.

Donna Owen: If we start using variances, look at how this is done through the Board of Adjustment. (Peg clarified that BoA action is controlled by state law and everyone does it the same way.)

Tessa: Regarding Lee's estimate of 450 potential lots in his town build-out, this doesn't include the area outside town limits. Water and septic capacity don't recognize town lines so please consider factoring in capacity of these lands even though they are outside town jurisdiction.

Colleen moved to adjourn, Matt seconded, and all approved. Meeting adjourned at 8:51 p.m.

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