

Boulder Town

Planning Commission

Meeting Minutes

November 11, 2021

Zoom meeting, Commission quorum present: Chair Colleen Thompson, Vice chair; Matt Cochran, Haylee Apperson, Elena Hughes, and John Veranth. Alternate Marian Johnson was absent. Also attending: Secretary Peg Smith, Zoning Administrator April O’Neal, Town Council Liaison Judy Drain, Planning Commission consultant Lee Nellis.

Public attendees: Elizabeth Julian, John Files (Cascade Water Resources), Ashley Coombs, Tom and Caroline Hoyt, Gladys LeFevre Jeanne Zeigler and Kipp Greene, Jennifer Bach, Korla Eaquinta, Mark Nelson, Peter Benson and Tina Karlsson, Ray Gardner, Tessa Barkan.

Colleen opened the meeting at 6:05 p.m. John moved to approve the agenda; Colleen seconded. Following discussion, the Hughes/Geerlings request was removed, vote on Subdivision Amendments was added, and discussion on downzoning will be moved to a later meeting. All commissioners voted to approve. Colleen moved to approve the October minutes; John seconded. No discussion; motion passed unanimously.

Lee Nellis: Discussion on Hydrology Study, Subdivision Amendments, Internal Accessory Dwelling Amendments Questions

Matt introduced John Files, a consultant with Cascade Water Resources, to provide information on what’s involved in a hydrology study. Lee summarized for him the need given Boulder’s build out potential: As currently zoned, over 450 new homes could be added to Boulder town; that there are no limits to private wells, and that with no likelihood of municipal sewage treatment in the foreseeable future, such an increase in onsite septic systems create a strong potential for aquifer contamination.

Files said phased approaches often work best. Water right policy, in our area allows any property owner to file for 1.73 acre/ft on each lot. USGS monitoring wells in our area already show a decline in water table, starting in 1982-2021; a well on the southeast side shows a 17-foot decline and on the southwest a 11-foot decline, even with what he called “minimal extraction” of water over the past 10 years. Boulder Farmstead (BFS) also isn’t using full capacity, currently 90-100 acre-feet/yr out of a capacity of 200 acre-feet/yr. Both adjusting the water right policy as well as a hydrology study could result in better policies for long-term sustainability. Files did the hydro study for BFS on both newer wells as well as Boulder King Estates and said they could provide more information. Our area is unique in that the primary aquifer is in the Glen Canyon Group, primarily Navajo sandstone. He said that testing in the deepest alluvium (boulders, cobbles, etc.) reveal “no saturation in any of the alluvial materials; that “between the streams and the top of bedrock there is no saturation.” That’s good from a contaminant perspective, but not good from a recharge perspective.

Files said monitoring would be the place to start. The two USGS test wells are checked only a year, in March, providing basic trend data but no way to determine when or how much recharge takes place, only that we’re losing. We need continuous data sampling, set up for every 6 hours, to monitor recharge times and volume. Septic systems can be easily sampled, typically measuring nitrates from either ag or sewage systems. Some wells are sampled in the same way, and some surface water should be too. Studies should be tailored to exactly what you’re looking for. Assuming you can just drill deeper is not a long-term fix.

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Colleen said money would need to be budgeted. Planning Commission can gather data to start that process with the new council. Files said Utah Geological Survey (UGS) hasn't done much in this area, but may be able to help secure funds for a study. Files has encouraged Jones and DeMille engineers to put a measuring device on BFS wells for continuous monitoring, but they haven't done that yet. He said the costs for a transducer/data logging system for a well, depending on depth, costs around \$1400-\$2800 per well. He's also set up clients with sampling programs for contaminants, which they can easily conduct themselves.

John asked about a comprehensive hydrology study in Castle Valley and asked Files to estimate its cost. Files said that would likely be \$100-\$150K if conducted by USGS; if conducted privately, it would probably cost \$30-\$40K. Grant money would definitely be needed. When asked about setting up a phased approach, Files said the well monitoring would be in the neighborhood of \$5-\$10K. John also emphasized the importance of bringing in other groups or agencies to partner with Boulder Town, such as BFS, or the county, which has so much unincorporated land adjacent to town. Files agreed. Presently, only BFS and USGS can provide even sporadic data. The town's argument could be that with only a fraction of water rights being used, water levels are already dropping.

John suggested a phased approach, starting with gathering data to begin a proposal. Files said well logs and each owners' water right files might provide specific data on water levels and quality, plus BFS can provide info.

Lee agreed that it would be reasonable to try to persuade BFS to do continuous monitoring of their wells and theirs serves a large portion of the public. He questioned whether evaluating all the water rights would reveal much about water levels or contaminant levels. Rather, initiating continuous monitoring by BFS and conducting some sampling of town would be relatively easy to do. To obtain a grant, funders' first question would be what we've done for ourselves already.

Lee said the build-out potential needs to be seriously addressed. Once land is subdivided, those lots (with their water rights) exist forever, regardless of whether a house is built next year or later. The impacts on the aquifer would be irrevocable. Collecting capacity data now is critical.

John repeated the need for partnering with other stakeholders. The town has no jurisdiction over BFS. And if there's a contamination issue in the Draw, there's no jurisdiction over the county.

To Colleen's comment about funding, Lee said a minimum thing to get started could be the relatively modest cost of continuous monitoring on one of more BFS wells, plus assembling well logs and other paperwork, which would need to be done by someone familiar with what they're looking for. If the town can budget for some share of that while other partners are being assembled, it could come start. "You just don't want to get bogged down in details while a 100-lot subdivision application comes in." He said Boulder has a unique opportunity where we're not yet playing from behind. There's no need for Boulder to find itself in that situation."

To Matt's question, Lee said BFS needs to be apprised on what's happening to the aquifer and asked to initiate its own continuous recharge monitoring. This would be a great opportunity to collect a modest amount of data pretty quickly. The town can claim to have made the initial commitment, plus the building of partnerships, which is favorable to funders.

Files suggested starting with what is already at hand: BFS well logs, etc, then starting a sampling program with a few shallower wells more prone to contamination like Boulder Mountain Lodge. John said he would prepare a proposal for an initial study, with Cascade Water Resources providing a rough cost estimate to review next meeting and then forward to the Town Council, along with the build-out projection providing the impetus.

John made a motion to ask Cascade Water Resources to prepare a proposal for the phases as discussed and this item to next month's agenda. Matt seconded the motion; Matt, Haylee, Elena, John, and Colleen voted "aye." Discussion followed about the primary area of interest. Lee suggested northern Boulder given that it contains half the build-out potential though commissioners agreed

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they didn't want to omit any area. Files said the water table in that area is extremely deep as well as geologically less prone to contamination. He said contaminant sampling is more relevant to the south. John and Matt will work with Lee and Files offline, to report next meeting.

Next issue was the Subdivision Amendments, returned to the Planning Commission by Town Atty Mark McIff. Lee said the only questions McIff actually had were on the highlighted, explanatory notes that Lee had left in the Town Council's copy; those notes were never part of the official ordinance language, but their inclusion apparently caused confusion. However, the notes were intended to highlight areas of the Subdivision Ordinance that should be further addressed once the Planning Commission is reviewing the ordinance in total. Lee said the legislature has created 84 pages of subdivision modifications, some of which will apply to Boulder's ordinance and that process will take time. His intent in creating the "Subdivision Amendments" was limited to a current, specific situation that highlighted an anomaly that was contrary to common real estate law. Lee can remove his notes, include a separate explanatory memo, and re-forward the document, as is, back to the Town Council.

John said despite his agreement with the intent of the changes, he could see an interpretation saying a lots must be accessed via dedicated right of way, changing Boulder's handling of private streets. He said historically Boulder has allowed up to four lots in a subdivision to access their property via a private drive. He noted the potential of problems with maintenance agreements and also the town's reluctance to accept dedication of new streets. He was concerned about solving one problem but creating another without adequate airing of the potentials. Lee acknowledged the concern and asked if, policy-wise, the Planning Commission wanted to move forward anyway and move that to the rest of the subdivision changes.

Lee said, "Private streets are catastrophic. The Town will get dragged into controversies." He said he's seen too many examples of ongoing maintenance and safety issues years down the line and wouldn't advise any town to set themselves up with that situation. This wouldn't affect existing subdivisions, only those moving forward.

John wanted time to look at other towns' examples and receive more public input.

Colleen made a motion to remove the explanatory notes and return the Amendments to the Town Council. John commented on the motion saying it should be clear that this would require every lot to touch an existing, dedicated right-of-way and offered the alternative to put the discussion back on the agenda. Matt seconded the motion, Haylee, Coleen, and Matt voted 'aye'; Elena and John voted 'no' saying they didn't believe Planning Commission had adequately thought through the implications of requiring all new lots to be on a dedicated road. Vote was 3-2, motion carried.

Next item, the Internal Accessory Dwelling Unit Amendments:

Lee reviewed the requirement imposed by legislative changes that all communities allow IADUs (self-contained dwelling units housing within the footprint of an existing dwelling). Our ordinance was revised to comply with state language. In answer to Colleen's question, Lee said the original ordinance, 2018-4, is to be repealed in its entirety, being no longer consistent with state law or even with our own revised Table of Uses. His suggested action was to hear comments, discuss, and if the Planning Commission agrees in principle with the revisions, he'll reformat/renumber the document to match the codified sections to send along to the Town Council. A separate memo will explain the changes (in place of the highlighted text.)

Lee clarified that a residential short-term rental still requires a CUP.

Public Questions Related to IADU Ordinance

Colleen opened the floor to any public questions about the ordinance

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Korla Eaquina asked about IADU definition; is this just “home-sharing?” Lee said no, the intent is to create a self-contained apartment within your home; related changes to building code facilitate this provision.

Elizabeth Julian said the Planning Commission needs to review Roberts Rules of Order. A motion requires a second to move the matter into discussion. A vote is not called until discussion is ended.

Judy Drain asked about EADUs and why there was a requirement for them to be within 100 feet of the primary dwelling? Lee said this language had come out of the original 2018-4 ordinance and he hadn’t been present during that discussion. Matt said the idea was that an EADU stays in proximity to the main dwelling, in visible contact. That requirement is open for discussion.

Public Hearing on IADU Required Amendments

Colleen made a motion to go into public hearing, with Matt seconding the motion. All in favor: Matt, Haylee, Elena, John, Colleen.

There were no comments. Colleen moved to close the public hearing; Matt seconded. All in favor: Matt, Haylee, Elena, John, and Colleen. Colleen reopened the regular meeting.

Discuss and vote on IADU Required Amendments

Following discussion about maintaining open space, proximity to wells and septic systems (or sharing thereof), variations in lot topography and dimensions, the Planning Commission agreed to remove the 100-foot requirement on siting an ADU near the primary dwelling to give landowners more flexibility.

John moved to amend IADU Required Amendments draft by striking item 4 and renumbering. Matt seconded. All in favor: Matt, Haylee, John, Colleen, and Elena. None opposed. Motion carried.

John reviewed the exact revisions: Lee is composing a memo to Town Council explaining the changes and noting the Planning Commission’s discussion and eliminating the highlighted notes from the draft ordinance; deleting the size restriction on accessory buildings (not dwellings).

Colleen moved to accept amended draft; Matt seconded the motion. All in favor: Matt, Haylee, Elena, John, and Colleen. None opposed. The amended IADU Required Amendments ordinance will be moved to the Town Council.

Discussion and vote on Subdivision Ordinance

The previous discussion on the Subdivision Ordinance had taken place while Lee was present to address questions. John made a motion to provide a clean version to the Town Council (removing explanatory notes and highlights) and leave the wording on private streets as is. Matt seconded the motion. All in favor: Matt, Haylee, John, Colleen. All opposed: Elena, then John changed his vote to “no.”

John backed Elena saying he still had concerns about moving forward without a public discussion on new lots requiring dedicated road access. Elena made a motion to reconsider the draft; John seconded the motion. Discussion questions: We need to understand the implications of the changed wording before sending it to the town; more discussion on problems created by private drives, complications for new subdivisions. What about the 5-acre lot size and no room to have a dedicated street taken out of its acreage? Also, given “look and feel” of Boulder, do street widths need to equate to urban area streets? Private drives without enforceable maintenance agreements end up being problem. Other people in town need to comment before we inadvertently outlaw private driveways. Concerns about access and safety still need to apply, private or otherwise.

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John said he's like to compare other towns' ordinances to see how they handle private drives and streets. Matt said, based on the comments he was hearing, that it sounded like the Amendments needed more discussion. Matt voted "aye" on Elena's motion for reconsideration: John, "aye"; Haylee, "aye;" John, "aye; Elena, "aya"; Colleen, "aye."

Elena will talk with Lee about wording. John will distribute options to discuss. The subject will be back on the agenda next meeting for further discussion.

Ray Gardner Revised RV Park Concept and Questions

Colleen clarified that Ray's concept plan is now subject to the recently approved 2021-5.

Ray submitted a sketch (see meeting materials on website). He needed to relocate the site closer to his home and using shared access off his home driveway. He wanted to know if the Planning Commission would see anything obviously problematic with his new scheme.

A total of 20 RV sites are shown, with a driveway loop to tentsites and park entrance off his driveway accommodating a park office/restroom complex. Ray said he's complied with setbacks as required, that he's planning appropriate screening from the highway, that the two separate septic systems are on either side of Deer Creek, 100 feet away. Visitors can stay a maximum of 180 days within a year (per ordinance).

Hearing no other questions or comments, Ray said he'll submit his CUP application to the Zoning Administrator. Per process, she checks that his application is complete, then submits it to the Planning Commission clerk for distribution. Peg suggested doublechecking the commercial development standards checklist to make sure he's meeting those requirements and noting where certain design aspects add to or detract from overall scoring.

Upcoming business for December 9

- SD amendments discussion
- John, Matt, Elena more info on hydro study
- Ray's CUP app, possibly

No Lee Nellis segment; Lee will be out for medical reasons.

Final public comments

Judy Drain thanked Planning Commission for their discussion

Colleen moved to adjourn the meeting; Matt seconded the motion; motion passed unanimously. Colleen adjourned the meeting at 8:48 p.m.

Peg Smith _____ Date _____