

Boulder Town

Planning Commission

Meeting Minutes

February 10, 2022

Commission quorum present: Colleen Thompson, Matt Cochran, Elena Hughes, John Veranth, and Tina Karlsson; and alternate Shelley Price Gipson. Also attending: Planning Commission Clerk Peg Smith, Zoning Administrator April O'Neal, Town Council Liaison Elizabeth Julian; and Consultant Lee Nellis.

Members of the public: Korla Eaquinta, Ashley Coombs, Tessa Barkan.

Matt opened the meeting at 6:01 p.m. and made a motion to approve the agenda. Tina seconded; all approved. Matt made a motion to approve Jan. minutes, John seconded with insertion of numerous corrections, including noting for future CUP approvals the applicant's address for the record, as well as Commercial Standards Checklist scores. All approved.

Nellis discussion: Ordinance Amendments, SD roads memo, SD ordinance, SD checklist

Lee described forthcoming discussions as part of a long revamp of the Subdivision ordinance. The first changes will be required amendments due to legislative action, followed by roads issues. The town can't regulate boundary adjustments between landowners but can look at them if a dwelling is involved. New state code has over 70 new definitions; there's no requirement for ours to be identical, but they should be consistent. He'll continue working on these.

The first ordinance amendments shouldn't be controversial. Lee is just trying to clarify simple things and make our code consistent with state law.

Lee proposed a new section in Chap 151 (Building and Construction), with a vested rights ordinance. He is proposing adjusting building regulations that were not clear or unrealistic, specifically the time allowed to complete a project. He said the town has the right to knowing a project will be built as presented; the builder has the right to know the town can't change rules in the middle of a project. Next, he's proposing amendments to the process for adjusting parcel boundary that aren't part of a subdivision and adding the plat amendment process. Third, an initial set of definitions to bring into our code into state compliance, with more to come. He said his goal is internal consistency and eliminating redundancies to make our ordinances easier to understand and administer. He suggested moving forward with public hearings on the first chunks of changes. Lee asked for input from the Commission on the definitions.

Colleen asked if "billboard" on page 11 is in conflict with our sign ordinance. Lee said the definition as given is now same as state law, but maybe it isn't needed at all given that Boulder doesn't allow billboards. He noted problem areas where definitions and requirements are scattered between our subdivision and zoning ordinance, causing confusion.

Lee said changes in "vested rights" deadlines can be modified by Town Council, if needed, citing Covid, weather events, etc. where sometimes discretionary power is required. However, he said you need some deadline so you don't have half-finished projects sitting around.

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Elena asked about Section 154-03, page 5. Lee said the state allows a builder 10 years on construction within a subdivision under the building code regulations in effect at the time the subdivision was approved. Also, Elena asked about her own parcel boundary adjustment and taking it to the Town Council rather than Planning. Lee said Boulder has delegated land use matters to the Planning Commission. Generally, the Planning Commission is better able to evaluate if a lot line creates a problem or not. His changes would have boundary adjustments approved in the Planning Commission, with appeal authority at the TC. The reference to an “Administrator” will be changed to “Zoning Administrator.”

John questioned page 4, para D on time extensions. He suggested the Zoning Administrator, rather than TC approve time extensions, given cause. But a bigger question are the time limits ----- John said many homes are owner-built and that partial occupancy has sometimes been approved; few homes are completed in 180 days. John said you previously only needed to show continual progress. Lee said the requirement isn't completion within 180 ^{days}, it's starting the project. Then you have 18 months. He said the intent was for a builder to not get partway into construction, then leave an unfinished mess and creating problems for their neighbors. After some discussion, Matt said he'd like to hear from the public on the matter of building timeframes: Leave as is, finishing within 18 months or else change language to the owner showing continued progress and removing the 18 months deadline.

On Section 154-04-06, duties of building inspector: Matt said other than minor material changes, we've been leaving that up to the owner and the county building inspector. Lee gave an example of approving a subdivision application and suddenly the cat operator decides to change location of a road. Do you want a way to address that? John said the wording can be changed so it applies to subdivisions only. As is, the Vested Rights language applies to everything that has an approval date. Lee said there needs to be fidelity in what the applicant presents to the town. “Do I have to put x where I said I would? Yes, you should.” Colleen agreed about changes affecting exteriors.

John suggested using the state's wording on Parcel boundary adjustments. Lee said referring citizens to state law is asking for confusion, so he doesn't do that.

Matt made motion for Vested Rights and Property adjustment ordinance changes to go before public hearing in March. Elena seconded. No discussion. John abstained, all others voted 'aye.'

Minor Subdivision: Currently minor subdivisions are not provided for in the Zoning or Subdivision ordinances. Lee said rather than trying to make one subdivision ordinance cover everything, he's suggesting a “minor subdivision” option to offer locals the ability to cut off a lot or two without the same onerous requirements as a full subdivision. This would be a simpler, more expedited process; therefore, there are also some tradeoffs: as worded, the minor subdivision is residential only, precluding home businesses or ADUs. It would allow flag lots. It requires access to BFS, not a private well, and there can be adverse effect on current irrigation. A preliminary application would go to public hearing, and assuming the final plat that meets all standards, final approval is done in Planning Commission. It's designed to not rely on the rest of the SD ordinance.

Discussion:

Item A, Land Uses permitted in minor subdivisions. John disagreed saying the underlying zoning should determine land use as defined in the Table of Uses. Lee emphasized that this is intentionally a privileged, streamlined process; the ToU allows churches (and other things) as uses. That isn't the intent of this. The owner, not the town, is requesting the ability to use minor SD requirements for a land split; otherwise they need to comply with the entire SD ordinance for a two lot subdivision. Lee said he'd like to clarify allowing continuing ag and also considering the matter of the underlying zoning district, but would like to stay with the intent of this option being a privilege that the town can condition.

Item B: number of lots? After some discussion, four lots seemed to be the consensus.

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Item C: street access permitted: Lee said the typical person, living on one lot and wanting to divide off three other lots typically wouldn't have the resources to build a standard street. Plus, John said the wording would disallow access to a public trail off the property. Lee will end the sentence after the word "street."

Item D: flaglots permitted. John said allowing flaglots actually solves many Boulder problems: drainfield placement, location of a well, unique topography. It was suggested that the Planning Commission could simply ask for justification to be provided.

Item E: type of water supply permitted. This generated much discussion. Matt agreed with the simplicity principle; Colleen said it would preclude her from applying the Minor SD as BFS doesn't reach her home. This affects all properties beyond Hills n Hollows and also properties in upper Boulder. Elena said without hydro study now, she wasn't sure allowing private wells would matter much now. Lee said a revised (major) SD ordinance would require the developer to conduct a hydro study to show they can support their development with water. Lee said it could be changed to requiring BFS connection unless that's not feasible. They have to be connected if they can be unless connection is not feasible. The hydro study can be discussed again with the major SD ordinance. After much more discussion it was decided to remove the existing Item E and move the language about water availability (from the SD ordinance) into this section.

Item F: wastewater. Lee said Boulder currently requires a soil survey to show leach field permeability, which is more accurate than a perc anyway. In Boulder, it's not difficult to show your lot has a suitable location, plus the Sensitive Lands ordinance precludes building on a slope.

Item G: protections. Lee said his objective here was clarity in identifying things that should be protected, like wetlands, existing vegetation where possible, etc. He said our Dev standards as well as the Wildland Urban Interface ordinance provide specifics.

Item H: buffer requirements. Same as for Comm Standards. The language has already been adopted. Most properties would be unaffected. Lee said the problem with existing ordinance is gives information without having a standard to apply it.

Item I: protect agricultural resources: Matt would like something different here, saying most of Lower Boulder is irrigated, making these subdivisions impossible. Lee said the intent was to ensure land division that would include a dry area building envelope and not interfere with or take over an irrigated area. John said this is another good example of getting rid of the 3:1 ratio; owners need some discretion. Elena said some properties can't logically be divided into irrigated/building envelope. Plus, she wouldn't want to overdefine "irrigation" to the point of discouraging people from irrigating just so they have more building area. She was also dubious about Planning Commission "discretion" as that's currently allowed but wasn't applied in her case previously. Lee said "discretion" is genuine, to be applied within given standards. The current ordinance deficient because no standards are defined.

Lee said if you have flat, deep soil lot, without any Item G items, you can pretty much put a building envelope anywhere you want. This just allows Planning Commission to address specific issues. Allowing people to mess with lot shapes is helpful. Beyond that, saying you won't consider irrigated lands at all isn't consistent with the GP. He mentioned his buildout study that looked at every parcel. "Do you want people to easy to subdivide those irrigated lands or make it a little harder?" There are other areas where you can split the difference. You want to encourage development in the best possible places. Giving people incentive to think of it in that way is a good thing. Bigger subdivisions should be more complicated. John suggested putting more incentives into clustering rather than encourage chopping pasture into squares. Perhaps either/or: you can either do a small subdivision or you can do a clustered big one, but you can't take 100 acres and chop it into 20 5-acre squares.

Lee: said we'll get to the cluster discussion but can't work on it without discussion zoning.

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Matt proposed ending the discussion for the evening. The vested rights and the boundary adjustment ordinances will be discussed again following public hearing next month. Lee will edit and resend those documents for the hearings. He'll also resend a Minor SD draft reflecting comments from tonight. He said having the minor subdivision procedure liberates you to require more for the bigger projects, such as clustering.

Hydrology study status

Matt said TC deprioritized the study; it's on hold. John Files has no time to give us a proposal. Colleen asked about Jim Catmull's BFS info. Matt will forward it if he receives it. It will provide a glimpse of certain aspects, but not ground water across town.

Final public comments

Donna Owen: About discretion and subjectivity: you don't want to lose sight of having a set of rules with some leeway. Don't just throw rules out, such as the 3:1.

Review Action Items, 2022 Priorities

Elena wants to continue tightening up the ordinances (as also mentioned by the town council).

John wants to help make the town friendlier for families, working age, etc. Towns like Torrey are getting housing grants. He'll research some of that info to bring to Planning Commission in April.

There was a question about the TC's mention of a Transportation study. This was in reference to dedicated roads and making sure the town's street maps align with county/state maps. Judy Drain is handling the maps right now.

Matt was interesting in finding the sensitive lands map overlay. April said FEMA hasn't mapped any flood zones.

Discuss Upcoming March 10 Business

- Two public hearings, vested rights and property line adjustment
- Second half of minor subdivision discussion
- Discuss larger subdivision requirements
- Ongoing addition to definitions. John says to keep on agenda.

John asked if a formal procedure exists for requesting information directly from Town Atty Mark McIff. Peg didn't think so, as long as John identifies himself as a Planning Commission member.

Tina said each property owner is taxed for trash removal. The dumpsters are available for use by everyone. So it's legal for Ray to use the county dumpsters, if that's his plan. April will forward that info to Ray Gardner.

Colleen moved to adjourn, Tina seconded the motion. All approved. Matt adjourned the meeting at 8:28 p.m.

Peg Smith _____ Date _____