

Boulder Town

Planning Commission

Meeting Minutes

March 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, Town Council Liaison Elizabeth Julian; and Consultant Lee Nellis.

Members of the public: Korla Eaquina, Ashley Coombs, Tessa Barkan, Sarah Langwell, Jennifer Geerlings and Dan Pence, Mayor Judy Drain, Mark Nelson, Anson Fogel and Alex Fuller, Jim Catmull, Jennifer Bach, Jeanne Zeigler, Natalie Cabrera, Susan Kelly, Brynn Brodie, Nick Vincent, Dylan Rose Geerlings.

Matt opened the meeting at 6:01 p.m. and made a motion to approve the agenda with the omission of Minor Lot Subdivision Amendments discussion; John seconded. All commissioners approved except Elena, who was disconnected momentarily. Matt moved to approve the Feb minutes, Colleen seconded. John requested wording correction on pg 2, para 6, from “minor sd’s prohibited” to “minor sds “not provided for” in the zoning ordinance. John moved to make the correction, Matt seconded, all approved except for Elena (still not reconnected).

Matt made a motion to open the public hearing on Vested Rights, John seconded the motion. All approved (excluding Elena).

Vested Rights Public Hearing

Matt read Ray Nelson’s written comment: Ray objected to detail and enforceability of the changes. Is it really necessary to micromanage changes to plans? Site plan, building footprint, building use are the important things the town should manage.

Mark Nelson: You’re moving too fast on all these items. It’s hard to review everything online with new revisions coming too soon before the meeting. Ten days is a reasonable time for all materials to be available for review before meeting. On Vested Rights ordinance, 151.11c, 1 and 2, it’s unclear. Also you need a reference for enforcement to be applied. Avoid words like “may” and “could.” Schedule a hearing after you have everything completed and ready.

No other comments. Matt moved to close the public hearing, John seconded, all approved.

Matt moved to open the public hearing on the Boundary Adjustment Ordinance, John seconded. All approved.

Boundary Adjustment Public Hearing

No public comments. Matt made a motion to close the public hearing, Tina seconded. All approved.

Discussion: Vested Rights Ordinance

John and Lee have been working together, between meetings. John suggested that conversations between Lee and a single commissioner can remain private, rather than distributing memos to the whole commission. If they arrive at some conclusion, that can be distributed for the meeting.

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Lee suggested addressing the public's comments: First, Mark's reference to 151.11c did not seem unclear to Lee. The matter of town fines should be cross-referenced to the enforcement language (easily added). He thought the written comment about not having resources to review building plans (mechanical code, etc.) misunderstood. Lines of authority between the town and county building inspector have not been changed. The town has always had the ability/responsibility to determine its own land use requirements and to the extent that they are required within the building application process and enforcement, that has not changed. The language is clear. Changes to the placement or usage of a new building is governed by the town. The approved building plan is a contract between applicant and town.

John wanted to distinguish between commercial development and single-family dwelling standards. Lee disagreed that the new wording is more restrictive; it's merely clarifying.

Focusing on 154.02-04, Lee said 154.02 could be changed to state it refers only to approval of land use permits, not building permits or compliance. This states clearly what changes can be made in plans. Vested rights are standard, common across country; this language is widely and holds up. If we lighten up on this, the result could be changes to permits, which you then would have to decide on individually--- is this what you want? Minor changes can happen. John thought existing ordinances provide sufficient language regarding setbacks.

John wanted to strike 04, -05, -06 and replace with his wording to apply only to CUP items explicitly approved. It shouldn't be extended to any type of change. For a single-family dwelling, we don't control color, layout, etc.; our jurisdiction is limited to maximum height and setback minimums. On commercial development, we require specific items stipulated in our development standards.

Lee said the vested rights wording says nothing about that. The town doesn't/hasn't regulated floorplans. John questioned "minor" dimensional or material changes. What constitutes "minor"?

Matt asked Lee and John to continue this discussion outside the meeting. Lee suggested that given this, the Planning Commission should take no action now and try to keep working toward something that everyone understands. Colleen asked that Lee and John provide more finalized material for discussion next time. Elena thought Lee's language made sense. Matt said a separate work meeting can be set up for working through these matters. Lee said he and John mostly agreed on language for lot line adjustments but thought a vested rights work meeting won't help. "This is abstract; the whole chapter might go for a decade with no one needing to use it. John said he's trying to make language that's scalable to Boulder. Lee said we "in the procedural weeds". The main intent is to make our ordinances consistent with state law. This has required him to fiddle with areas, such as Chap 151, and changing that leads to other areas that also have to be changed in order to stay consistent within the ordinance. Lee said if you want to be productive in a work meeting, the Minor Lot SD is substantively much more important to deal with. He and John will try to conclude matters on the Vested Rights ordinance.

Discuss/take action on Boundary Adjustment Ordinance

Lee said the existing subdivision ordinance is a mess. The Amendment Regulating Land Divisions is his attempt to discuss property boundary adjustments (adjustments to a lot line *outside* of a recorded subdivision). State law allows consenting owners to do that without town regulation. Chap 152.115 says that. However, within recorded subdivisions, 152.116 covers it, but new state law is not clear: it may be best to require a public hearing for either situation, which could be waived if needed. The simplified 152.116 states a public hearing is required on any lot line adjustment. Lee is trying to clarify lot line/parcel boundary adjustment. There needs to be a way for landowners to change lot lines. Within a subdivision, a procedure is provided, affected entities must be notified, and the Planning Commission reviews to ensure no adverse impact, etc.

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John made a motion to produce a clean draft by replacing 152.116 in the current draft with that section from the March 9 memo. Matt seconded. All approved. The clean document will be put on agenda for next month.

Regarding SD ordinance, 152.005d, John noted state code is not consistent with itself. Lee agreed, saying the legislature approves changes to code without thrashing through those effects on existing law. We have to decide what makes sense within the context of this uncertainty.

Lee said the changes in the Land Division amendments are not substantive changes and they can be acted on in April and sent on to the Town Council. All agreed with that statement.

In conclusion, Matt would like to schedule another public hearing on the Vested Rights ordinance if the rework can be completed in sufficient time to allow the public to review before the meeting.

Lee noted the town council's responsibility to create and publish their fee schedule that will now need to include a fee for applying for property line adjustment.

Lee is concerned that the more substantive matters are being delayed. He said the town and landowners will most benefit from resolving Minor Subdivisions amendment, which also addresses other important elements.

Public Hearing/Action: Langwell RSTR, 915 W Highway 12

Matt made a motion to open the public hearing, Colleen seconded. All approved.

Sarah Langwell has applied for RSTR of her home southwest of Hills and Hollows, which would be a "lower" Boulder RSTR. Sarah summarized her reasoning, which is to ultimately enable her to live in her home full-time without needing to rent it out.

Ray Nelson: Sarah's application is well-done. However, who takes care of guests' questions or issues if both Sarah and Doug Howland are out of town. Secondly, what if there is an accident on the right-of-way that accesses Sarah's and Ray's homes? He wanted a release from liability for any accidents involving guests and thought Sarah should accept that responsibility to release him as well as the town. Thirdly, he said a maintenance agreement needs to be written (which Sarah said she would do and would contribute to maintenance.).

Mark Nelson: In general, I'm concerned about RSTRs. Surrounding towns are being inundated. You guys need to run a tight ship. Who does take care of liability or problems if you don't have personnel on hand?

Jennifer Geerlings: Given Boulder's housing shortage, has Sarah considered using her place for seasonal rental? (Sarah said she's aware of that need but her erratic schedule precludes her doing it.)

Judy Drain: It was one of our stipulations to need to live in Boulder if you're renting your place.

Brynn Brodie: To clarify, there are two possibilities? Live on premises in a separate dwelling or live elsewhere and rent a place. (Matt will clarify after the meeting.)

Ray Nelson wanted to hear the Planning Commission's responses to his comments.

Sarah Langwell said her other manager, Doug, lives 15 minutes away. However, she's also talking with her daughter and others in the community who might also serve as property managers.

Ray Nelson wanted a solid, written plan to that effect.

Donna Owens: I know Sarah to be a responsible, diligent person. The Planning Commission could make that stipulation about property management as part of the conditions to be agreed to.

Matt moved to close the public hearing, Tina seconded the motion. All approved.

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Discussion on Langwell RSTR

Matt read from the ordinance regarding property management, which only stipulates response time as a requirement. Tina noted the percentage of RSTRs allotted in the three areas of Boulder. Matt asked the Planning Commission to respond to Ray's comment. Tina said a RoW agreement needs to be between the two parties; Colleen and Matt agreed. Tina asked about liability insurance. Sarah said Air BnB encourages renter insurance, which she intends to have.

Colleen noted the Zoning Administrator's emailed comments consider the application complete.

Matt asked about outdoor fire provisions. Sarah said she isn't providing any outdoor fire facility.

Sarah said she'd take responsibility for her guests in case of accident. Ray was concerned about any accident involving a guest and not wanting any risk of liability.

Tina said other RSTRs have been located on private roads without any particular stipulation about liability.

Matt made a motion to pass the Langwell CUP application for an RSTR. Colleen seconded. There were no additional conditions required. Matt, aye, Elena, aye, Colleen, aye, John, aye, Tina, aye.

Discuss/take action: Troy/Elizabeth Julian RSTR renewal, 2135 Goldman Circle

The Planning Commission had any comments on the Julian renewal. Matt moved to renew the application. Elena seconded the motion. Elena asked how often renewals are required. (Once a year.) Matt explained if a RSTR is not being used, that use is revoked and the next applicant on the wait list would cycle in. If the town has received complaints, a RSTR might not be renewed. Elena voted aye, Tina, aye, John, aye, Matt, aye, Colleen, aye.

Matta asked about making renewals an administrative procedure. Peg said the app would go to the ZA, the clerk and ZA would coordinate on whether any complaints had come in. It does need to be known that residents have a right to submit complaints if there are actual grievances. John said the ordinance does not stipulate renewals have to go through the Planning Commission, therefore renewals could be administrative. At present, there is no waiting list for any area. Peg said CUPs continue until they're revoked for some cause. Matt said CUP holders are responsible for renewing them yearly, and if they don't, that is cause for revocation.

Matt would like renewals to be an administrative procedure; the Planning Commission can just be informed via staff report. Peg said RSTR CUP holders will need to be informed about renewing, and if they don't respond, the CUP will be considered lapsed. Clerk and ZA will define some procedures and will run them by the Planning Commission.

Discuss Fogel/Fuller Preliminary Application for Subdivision, 2175 S. Lower Boulder Rd

Matt said the discussion will be treated as a conceptual plan this evening, given insufficient time to provide notice for a public hearing. A public hearing and vote can be schedule for April.

Anson summarized: Currently, two 10-acre lots in Lower Boulder. Subdivision achieves two goals: first, it creates more reasonable and conforming lot lines to encompass existing structures in a sensible way. Second, they want to provide a third lot to sell to their tenant, Nick Vincent who rents their basement now and has worked with them for several years. We believe our plan complies with SD ordinance--- well water for the east and central lot, road services to all three lots with the new lot abutting Lower Boulder Road and its access to utilities. They had questions about emergency access and have met with Pete Benson, but could use more guidance. They will also need to prepare a road-sharing agreement with the Kelly's who share road access along their south boundary.

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Matt said necessary services are the big question: Connection to Boulder Farmstead for the new lot; sign off on the emergency access; Southwest Public Health for septic. Anson said they still need to do a separation of irrigation rights. Storm water drainage has been addressed via installed culverts and berms. Matt said the fire equipment turnaround and hydrants will be important to sign off before the next meeting.

John appreciated the well-constructed application and the plan's alignment with the General Plan.

Elena said it's good to see a landowner doing this for a younger member of the community. She suggested making it easier to qualify for greenbelt if Lot 1 acreage were bumped up a little, which Anson said they are considering. Matt requested a BFS letter on ability to supply water to the new lot.

Elena asked if the access road is public or private. Anson said it's private. Elena said at present, each lot is supposed to have frontage onto a public road. We're looking at changing that right now. It's one of the things holding me up right now but it's also why we're changing it.

There followed a long discussion on streets and interpretation of the current ordinance wording. John noted the urgency to get amendments to the town. Shelley said the emphasis on roads boils down to the safety issue of emergency access and firefighting.

Matt said the Planning Commission will look at the street wording before next meeting. A public hearing can be scheduled, though questions still need to be resolved about roads and hydrants. Consensus? An attorney's interpretation would be useful; road maintenance and ability to handle emergency vehicles and firefighting is probably the main reason for the road being an issue.

Final public comments

Judy Drain: Land Use training brought up importance of specificity of ordinance language.

Jennifer Geerlings: If the Planning Commission goes forward with the Fogel/Fuller application and it's approved, then the Geerlings/Hughes application should be too. It's not fair for the younger people who can't afford an attorney to crawl over your walls by themselves. Double standard.

Dylan Geerlings: We've worked months and months and spent money we don't have working the process. We want this to work for Nick. It should be a model. It's just frustrating to hear how this is being discussed now [different from the discussion we had months ago.]

Review Action Items and April 14 Business

- Minor Subdivision Review
- Public Hearing on Fogel/Fuller SD
- Vested Rights consensus draft or two options
- Boundary Lot Adjustment

John will move his housing information to May.

Colleen moved to adjourn, Matt seconded the motion. All approved. Matt adjourned the meeting at 9:00 p.m.

Peg Smith _____ Date _____