

**MINUTES TO BE APPROVED AT DECEMBER 12 PLANNING COMMISSION MEETING**

**Boulder Planning Commission Regular Meeting**

**November 14, 2024 6:00 PM**

**Meeting Minutes**

Planning Commission Members present- Tina Karlsson, Elena Hughes, Colleen Thompson Nancy Tosta, Darrell Fuller

Town staff present or on Zoom- Town Clerk Jessica Lefevre, Deputy Clerk Lacy Allen, Zoning Administrator Erin Smith

Meeting was called to order at 6:01 pm mountain standard time

**Approve Agenda**

Commissioner Tompson made a motion to remove items 17 and 18 from the agenda tonight and will have a meeting about the Boulder Town Infrastructure Design Standards. Commissioner Tosta seconded the motion.

All in favor. Motion carried.

Commissioner Tosta moved to approve the agenda with the above agenda amendments. Commissioner Hughes seconded the motion.

All in favor. Motion carried.

**Conflict of Interest disclosure**

None

**Approve Meeting Minutes:**

Commissioner Karlsson moved to approve the October 17th regular meeting. Commissioner Hughes seconded.

All in favor. Motion carries.

Commissioner Karlsson moved to approve the November 1st Special Meeting. Commissioner Hughes seconded the motion.

Commissioner Thompson abstained, Commissioner Fuller aye, Commissioner Hughes aye, Commissioner Karlsson aye, Commissioner Tosta aye. Motion carried.

**Staff Reports**

Town Clerk Lefevre reported that the Town Council will be having a second meeting in December. The date has not been decided with the goal to have the Public Hearings at the December 5th meeting and then voting on items discussed at the Special Meeting.

Zoning Administrator Smith reported that the application process for the subdivisions are on her list as her next project.

### **TC-PC Liaison Report**

John Veranth clarified that he would be speaking in multiple roles tonight. He will be speaking as a member of the public during the public hearing. He stated the Town Council appreciated the effort the Planning Commission has put into these ordinances. He urges a review team to really go through the ordinances to see if they work as intended using applications as case studies. There have been comments within the Town Council to encourage desired future outcomes and some of the discussion tonight will illustrate that point. When the Town Council is asking the Planning Commission to work on specific items, he would like to recognize the need for better communication on timelines, scope of work and desired outcomes. Upcoming items for 2025 are workforce/affordable housing and the RSTR Ordinance.

### **Public comments on agenda items. 3 minutes maximum per person.**

None

### **Public Hearing on the Fogel-Fuller RSTR Application**

Commissioner Huges made a motion to close the regular meeting and open the Public Hearing on the Fogel/Fuller RSTRS application.

Commissioner Karlsson seconded the motion.

All in favor. Motion carries.

Zoning Administrator Smith reported that Alexandra Fuller and Anson Fogel submitted a request to relinquish their currently held RSTR permit for the property located at 995 E 1940 S. They are applying for a new application for a CUP/RSTR located at 1165 E. 1940 S. The new application was submitted on September 15th, 2024. The application is complete and meets the requirements and she recommends approval.

Jennifer Geerlings made a comment stating from her experience in general of RSTR's in relation to this application she mentioned there are 2-3 Airbnb's close to her property. She did have an issue earlier and these are her comments in relation to that. When she reads the ordinance she wants to thank the Planning Commission as she feels it was written with restraint and it was done well with 3 different zones and not having too many RSTR's. It was written with the community in mind. Who is most affected by Airbnb's are the people located next to that Airbnb. She asked who to call if there are issues such as noise? She is not against Airbnb's, she just isn't sure there is a mechanism for people to make complaints because she would have some. Who is checking to make sure that people are complying with RSTR/CUP standards? How does the public know that what is asking to be done is getting done? She thanked the Planning Commission and asked them if they met the requirements.

Keith Watts stated that he and Lisa are the closest neighbors to the new Fuller/Fogel residence and are opposed to their RSTR/CUP application. They did not oppose the previous RSTR/CUP and they are now. Renters who explore the neighborhood surprise them and damage soil crust. They can hear renters and music. Usually muffled by distance. Recently, at the Sugarloaf Valley they were awoken by loud music around nearly midnight. The new residence is located much closer to their home than the previous property. The living room and patio is like an amphitheater and you can hear speaking. Vacationers are interested in having fun and less worried about the neighbor. The sounds of frolicking and screaming from the pond would be really loud. A new concern is wildfire. Last spring they found a wildfire raging near their old residence. He was able to dig a fireline as he had a shovel in his hand. They were able to quench the fire. Having naive renters next door poses increased danger. There is increased fire danger with short term renters. They are senior citizens who live quiet lives and having essentially a hotel next door will change their lives irreparably and feel that the new RSTR/CUP is not an appropriate space for this use. He asks that this RSTR go to the next available applicant.

Susan Kelly introduced herself as a neighbor of Alex and Anson. There is a cluster of RSTR's in the area and there have been nuisance behaviors of the short term renters who don't seem to really care about the area. She stated she had a more specific concern about the ordinance and this application and she asked if there is an attestation that there aren't any existing agreements that might impact the approval of the application such as the existence of a road share agreement that restricts commercial use of the properties as there is in this case. If there is not such an attestation, should there be one? And if there is, there should be a mechanism to make an agreement between the users a legitimate request.

John Veranth speaking as a citizen. The hearing is about a very specific application and needs to be approved tonight. In review of the application, there are no problems, it meets the rules. State Law is clear. If a land use regulation does not restrict a Land Use application then the Land Use Authority can interpret to favor the Land Use application. The current RSTR Ordinance is a mess. Tonight's comments are legitimate, but this application meets approval as of the criteria that is in place today. The formula for RSTRs allowed is problematic right now with the percentage and needs to be reviewed. A CUP can only be denied if there are impacts that cannot be mitigated and there are no differences from the previous application and this one. Anson is entitled to approval of his application.

Donna Owen stated she isn't for or against. She asked whether they are full time residents, are they moving to a separate area or do they leave when the renters come? She also clarified that Sugarloaf Valley is a Guest Ranch and it does not go into the count of the RSTR's and there was one bad night with noise and she was not notified until the morning. She stated if you call her, she will go look and see what is going on.

Anson Fogel commented he deeply respects Keith, Lisa and Kelly's comments and he wanted to address some comments. He does occupy the house full time and it won't be rented often. The neighbors have his phone number and they can call him anytime. When they had guests at the previous house, almost all of them were retirees from Salt Lake and he was not notified of any complaints. He tries very hard to listen and address the concerns. They try really hard to weed out people who want to come to party and he is very strict about telling guests about quiet hours.

Commissioner Karlsson made a motion to close the public hearing and open the regular meeting. Commissioner Thompson seconded the motion.

All in favor. Motion carries.

### **Discussion and Action on the Fogel-Fuller RSTR Application**

Commissioner Karlsson commented that obviously there is room for improvement on the RSTR's concerning mapping, sound and roads. The Sheriff can be called if necessary in regards to sound, but there is nothing in the application that does not comply.

Commissioner Hughes commented that there was good feedback to revisit but in terms of this application, it seems complete. She did ask if Airbnb's are considered commercial use and are they involved in the agreements between an agreement.

Commissioner Thompson responded that Airbnb's are available all over the world even though they brought commercial properties into residential areas. They are now being reconsidered in other communities.

Zoning Administrator Smith stated that they are required to fill out a CUP application and this would need to be looked into further.

Commissioner Tosta addressed a Road Maintenance agreement between 2 parties is addressed in the new Subdivision Code, but the current one is more nebulous. This RSTR is good for 1 year and if the codes are renegotiated then maybe there are changes by the time this application is renewed.

Commissioner Fuller also agreed that he does not see where this fails to meet requirements and a Road Use Agreement is between 2 parties. Is selling firewood a commercial use of the road? If they have a dispute with their agreement, should they address it in court?

Commissioner Hughes made a motion to approve the Fuller/Fogel RSTR application. Commissioner Karlsson seconded the motion.

Commissioner Fuller commented that he is not related to the Fuller on the application.

All in favor. Motion carried.

### **Discuss Changes from Town Council on the 24-11-11 Subdivision Code**

The Subdivision Code was passed to the Town Council for review and the Town Council made some changes. Commissioner Tosta brought it back to the Planning Commission so they could discuss the changes. Councilmember Ellis offered many administrative changes and wanted to see if there are comments or opinions on these changes. This discussion was just a review.

This discussion can be heard at recording minutes 58:12 - 1:33:24.

### **Review and discuss 24-11-04 Building Code Draft**

Commissioner Karlsson presented the Building Code Draft that has been cleaned up and went through the changes that were made. There was no discussion. It was decided to go into the Public Hearing and then have the discussion.

Commissioner Hughes made a motion to close the Regular Meeting and open the Public Hearing on the Building Code draft. Commissioner Karlsson seconded the motion.

All in favor. Motion carries.

### **Public Hearing on the Building Code Draft**

#### **Public Comments:**

Donna Owen doesn't think that it is correct to hold a public meeting on a document that hasn't been given to the public.

John Veranth thanked Tina for her efforts to clean this up. The project approval which is the step where the Town Council approves it, the way it is worded, even if a project is clearly exempt from a building permit, you still need a project approval. He strongly recommends that it be deleted. This requirement is an administrative burden. The section about the lot of record before 1998, should be moved and numbered separately.

Commissioner Tosta made a motion to close the public hearing. Commissioner Thompson seconded. All in favor. Motion carries.

### **Discussion and Action on the Building Code Draft**

Discussion started at 1:43:13. Commissioner Karlsson addressed Councilmember Veranth's comment and stated she felt that project approval would have solved a lot of problems in the past. She felt that any subdivision recorded by the county prior to 1998, it would still be considered a subdivision. Discussion continued and changes were made during this discussion.

Commissioner Karlsson made a motion to delete the requirement of getting a project application for any building that does not require a building permit.

Commissioner Thompson seconded the motion.

All in favor. Motion carries.

Commissioner Tosta made a motion to forward this code as discussed and amended to the Town Council for their consideration.

Commissioner Hughes seconded the motion.

All in favor. Motion carries.

This discussion ended at 2:117:40.

### **Review and Discuss the 24-11-10 Zoning Code Draft**

This is what will be passed to the Town Council to align with the Subdivision Code

Commissioner Hughes made a motion to close the regular meeting and open the Public Meeting on the Zoning Code Draft.

Commissioner Karlsson seconded the motion.

All in favor. Motion carries.

### **Public Hearing on the Zoning Code Draft**

John Veranth commented this is really straightforward and he appreciated the work that was put in.

Josh Ellis made a public comment that was read by Commissioner Tosta saying “I would like to see the Planning Commission consider extending lot size averaging into the MDR zone, currently it is exclusively offered in the LDR and GMU zones.

Commissioner Karlsson made a motion to close the Public Hearing on the Zoning Ordinance and open the Regular Meeting.

Commissioner Thompson seconded the motion.

All in favor. Motion carries.

### **Discussion and Action on the Zoning Code Draft**

Discussion starts at 2:22:45 until 2:59:00.

Commissioner Fuller made a motion to amend the Lot Size Averaging further to include the MDR along with GMU and LDR.

Commissioner Karlsson seconded the motion.

Commissioner Thompson aye, Commissioner Tosta aye, Commissioner Fuller aye, Commissioner Karlsson aye. Commissioner Hughes nay.

Motion carries.

Commissioner Fuller made a motion to transmit the Zoning Code with the amended table to the Town Council.

Commissioner Thompson seconded the motion.

All in favor. Motion carries.

### **Discussion and Action on 24-11-10-Draft Boulder Town Infrastructure Design Standards**

This agenda item was moved to another time.

### **Review Draft Subdivision Application Form**

This agenda item was moved to another time.

### **Summarize Meeting Actions/Decisions**

Pass along the Subdivision Code with corrections

Transmit the Building Code

Transmit the Zoning Code

### **Upcoming business on December 12, 2024**

There may be a meeting to discuss design standards between now and December 12th.

November 19th Infrastructure Design Standards at 6pm.

Clean-up any remaining issues on Codes, Design Standards, and Application Form

Begin Discussion on General Plan Update Process

### **21. Final public comments. 3 minutes maximum per person.**

Donna Owen commented that she feels there is major confusion between a One-Lot subdivision and Lot Size Averaging. The One Lot needs to be in the Zones talked about and need to be 5 acres or more and only 1-acre lots can be made with Lot Size Averaging requiring small lots to have infrastructure.

### **Adjourn**

Commissioner Tosta made a motion to adjourn the meeting. Commissioner Thompson seconded. Motion carries.

Meeting adjourned at 9:15pm

DRY