

**MINUTES
PLANNING AND ZONING COMMISSION
CONTINUATION MEETING
DATE: NOVEMBER 17, 2020
TIME: 6:30 PM**

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1. **CALL TO ORDER:** Chairperson Robinson called the meeting to order at 6:30 p.m.
2. **PLEDGE OF ALLEGIANCE** The pledge of allegiance was recited.
3. **ROLL CALL** Commissioners present: Linda Robinson, Mark Tucker, Dan Heeney and Deanna Truelsen.
Ex officio's present: Trustee Watters and Trustee Lewis
Staff present: Manager Charles, Attorney Kelly, Building Official Doudy, Planner Garvin and Assistant Clerk Swope.
4. **IDENTIFICATION OF ACTUAL OR PERCEIVED CONFLICTS OF INTEREST.** None.
5. **APPROVAL OF THE AGENDA** Commissioner Tucker moved and Commissioner Truelsen seconded to approve the agenda.
Yes: All
No: none
6. **CITIZENS TO ADDRESS THE COMMISSION:** 5 MINUTES PER PERSON (Citizens may comment at this time or during a public hearing)
Five members of the public addressed the Commissioner: Kathy Curry, Chris Curry Carlee Lindell, Rachel Vas and Linnea Peterson. All are property owners and or residents of Dolores. The Curry's, Lindell and Vass are all Short Term Property owners in the Town of Dolores. They each spoke to the Commission regarding elements of the proposed Short Term Rental Regulations. They have concerns about the regulation for number of rentals in a street segment as several of the existing Rentals are on the same street segment. They advocate for the rentals that are clustered in the downtown area as they are close to the local grocery, the brew pub and the retail shops in town.
 - 6.1 **PROCLAMATIONS/PRESENTATIONS:** none
7. **REVIEW OF THE CONSENT AGENDA:** None

8. REMOVED CONSENT AGENDA ITEMS: none

***9. STAFF REPORTS** – Manager Charles asked the Commission to respond to the comments given and give feedback regarding the proposed regulations.

Commissioner Truelsen's opinion after a lot of thought and observation is that most of the rentals will be in the west end of town in the older homes and already are two in a block. Deanna says "I think this is really draconian. I don't think we need to worry about if we have too many. I don't think a corporation is going to come into Dolores, I may be wrong."

Ex-officio Watters "I just want to jump and say we had the conversation around this in the planning and zoning over several meetings and the reason behind it was to not have a concentration of (sic) rentals in a certain area. I also believe that sticking with this in the short term will be better because we have conversations of other topics including this one about "not being able to stick the toothpaste back in the tube". So starting out more restrictive and having the option to open it up later after seeing how it goes. She warned the commission about being subjective in their reasoning for what they think will happen without data to back it up. The data the commission did receive came from a class that David attended with data from all over the country. "Commissioner Watters says" Subjective feelings really need to be tempered with data. We need to think long and hard about whether we want just have it completely wide open or if we want to start with more restriction and have the option to open it up more in the future as we see how it goes." That is her understanding of where the conversation and the idea came from.

Commissioner Tucker doesn't have any strong feelings against grandfathering in the existing uses or Air BnBs or whatever "I agree we need to monitor the rate of change, so we have a thing in our proposed regs about 30 short term rentals is max. I think that is not an issue and I agree that they would be clustered down town because that's what's going on, but the town is changing. There is a cidery on the east side of town that is going to change some of that. But I would like to see some markers in there that says in 3 years, or 5 years that we review the trends and either validate the initial assumptions or change according to demand". He thinks we have that flexibility.

Commissioner Heeney "I'm with Mark I think we should consider the grandfathering in especially with what we are seeing with these meetings. We are four or five meetings in and we have mainly see the owners of the air bnbs represented and I'm not seeing any negatives from the towns people on comments so apparently these Air BnBs are being run to where it's not bothering it citizens. So I think we should look into the grandfathering of the existing business but I still want to curb this a little bit in this town. Or it could be just one big Air BnB here we would have to change the name of Dolores to Dolores Inn or something. So that's where I am at."

Chairperson Robinson Part of the concerns just for you all out there, part of what we are trying to navigate is the impact of this kind of business which does have people coming and going on a regular basis new people, different. We are trying to see what kind of impact this might have on neighborhoods, and how that could possibly negatively affect the neighborhood. We have heard lots of stories about the problems that Silverton is having and like Moab with short term rentals with both occupants and facilities. So that's part of where all of this is coming from. I'm leaning towards agreeing with the point that the limit 30 overall, I'm not sure that limiting one per block will help us to achieve what we want given the stories that we have been hearing from our local Air Bnb people on how things are working for them."

Building Official Doudy "I'd like to address some of the issues we have brought up here I am the one that went to the class. And I've done a lot of research on this. I'd like to start off with the unintended consequences of what one vacation rental per block is going to do to the other property owners in town. Once there is a limit of Short term rentals is achieved the remaining properties will be unavailable but the same thing will happen with the 30 limit as well." "We've got an issue where there is already more

than one per block.” There are a couple of options. One is a grandfathering clause which would be; as long as they stayed in operation by the same owner they can stay in operation. If they sold or if they ceased operation or if they came in to violations through the town ordinances then they lose the short term rental. The ones existing would be grandfathered in. Doudy recommends this option. The other option would be to make all short term rental owners even the existing ones apply. The applicants are issued a point range and preference is given to existing STRs and Doudy does not recommend that. The main thing we need to remember is that these are not home-based businesses. These are a conversion of a residential property to a commercial business which has the same building Code occupancy of an R-1 Transient type business like a motel or hotel. The guest stays for less than 30 days and they are not familiar with their surroundings. In Single family homes the constitution affords us some protections from inspections and government coming into your home. Home occupation is similarly protected. The reason for 1 per street segment are parking, conflicts among the rental occupants on the same street segment, party houses which are becoming more prevalent, noise ordinance violations, trash and finally change in the local home town environment. Town of Dolores receives complaints for the lack of long term rentals. The inspections are required for short term rentals same as motels and hotels.

Manager Charles asked to take a poll here on the one per segment item.

Commissioner Truelsen thinks limit of 30 is right and would go along with grandfathering in existing businesses and not passed to a new owner. She is not sure how she feels about the one per block.

Chairperson Robinson, not in favor of keeping the one per street but is in favor of 30 total.

Commissioner Tucker; is in favor of keeping the 30 limit doesn't have a problem keeping the one per street segment and grandfathering in existing businesses but as the industry grows he would like to have a review period of 3 years or so to view the impact. The town growth is going east and it is going to come “faster than we think”. Commissioner Tucker wants to stay where we are and look at it later and have some rationalization in that for the regulations we recommend to the town.

Commissioner Heeney thinks the one per street is another hard regulation to follow and wants to grandfather in the existing Air bnbs. Not sure he likes the restriction of not being able to sell the business to someone else. Air bnbs are a comfortable fit for Dolores instead of having big hotels coming into town. He thinks we need to have a denser concentration of air bnbs.

Commissioner Watters likes the 30 limit and assumed the existing would be grandfathered in so she is in favor of that. She thinks we should stick with the one per street segment with the reevaluation period of just one year.

Lewis likes the one year reevaluation time period and grandfathering in any business that breach the one per street segment. He doesn't have a strong opinion about the one per street segment.

Manager Charles suggests the commission moves this on to the Board with the commission having a split opinion on the street segment restrictions.

Robinson wants to clarify that there are a lot of second homes here that won't ever go into long term rental stock. There should be flexibility for those types of properties to think about the possibility of being short term businesses.

Responding to comments regarding section D 4 Health Safety and Code compliance. Item 4 b. and 4 d. 4 b. Smoke and co1 detectors and fire extinguishers. Inspections would mirror the inspections required for any residential home. They are a protection for the property owners where most platforms that provide services for these businesses don't require inspections. Home owners insurance may not necessarily cover this kind of use.

4 d. Parking regulations limiting one on- street parking spot per premise. Two off street parking required for this type of business. One space for the short term rental unless they have more than one bedroom. Consensus is that one on street parking is okay.

Part E b. Short term rental physical address information for the manager is only for the emergency service providers and will not be posted at the rental just with the Town and the emergency responders. The text will be amended to reflect that.

Commissioner Tucker wanted to make sure that the license would not be transferable and any new owner of the premise would have to choose to apply for a short term rental permit.

Commissioner Tucker moved and **Commissioner Truelsen** seconded to move Short Term Rental regulations to the town board for their review and approval based on the discussion and opinions and consensus on the number per block. The consensus at this vote came out as Commissioner Tucker was for 1 per block for the time being and the rest preferred to take that restriction out.

Chairperson Robinson asked for Tucker to repeat the motion to move the short term rental draft ordinance to the town board with the removal of 1 per block restriction 30 permits for overall town limits grandfather in existing short term rentals and a clause for a set review period to determine if the regulations are working the way the town wants it to work. Commissioner Truelsen seconded the motion as stated. Heeney clarified that the grandfathered business are included in the 30 total.

Yes: all

No: none

10. PUBLIC HEARING: none

11. ITEMS CONTINUED FROM PREVIOUS AGENDAS

11.1 REVIEW OF LAND USE SECTIONS FOR ADOPTION THIS YEAR

a. Review of the LUC marijuana amendment language to be presented to the board on November 23. (Attached to the packet in storage)

Jon Kelly and Elizabeth reviewed the language proposed for the LUC amendment and explained the technique of striking out the language that will no longer be used. For example all of the personal use and grow of marijuana is regulated by the state and the town does not need to regulate that. The new language will place the required language in the code to regulate the recreational, medical, and testing and cultivation uses in the correct zones and with the correct permits, particularly those properties that will be allowed as a conditional use because of their proximity to residential zones. New to this regulation is the conditional use criteria. This will be added to the code and numbered correctly.

Commissioner Tucker moved and **Commissioner Heeney** seconded to move draft Ordinance 547 to the town board for first reading.

Yes: all

No: none

b. Final STR review with the objective of including this iteration into the LUC amendment to be presented to the board November 23. (some comments are included in this document as we need to determine the language for some new definitions)

***See the minutes in staff reports as the subject was already in discussion by the public who addressed the Commission at this meeting.**

11.2 REVIEW OF DRAFT SECTIONS OF THE LAND USE CODE UPDATE PROJECT

a. Article 6 - Site layout and Structure Design Standards final review.

To continue the discussion of design standards for single family multifamily and apartments, amend definitions to include “neighborhood” as it pertains to special use applications, clarify standards for onsite runoff retention. Refine the standards for Downtown Mixed Use.

Planner Garvin shared a “cheat sheet” guide to help Commissioners review drafts of land use code sections. It includes a summary of the Section 6 Site Layout and Structure Design Standards. Garvin has added two alternative approaches site standards relating to water management. Water management is a high level to focus on water quality, water quantity and water conservation. The other alternative is low impact and deals with storm water management only although both alternatives can be used together. The commission can adopt both. The structures themselves get a new materials list. Residential design standard are revised. Parking standards still needs to be determined.

The Commission reviewed generally applicable standards (Section 6) standards that deal with topography and climate, where the building code addresses construction on slopes this piece will complement each element of the site development. The standards for structures relate to how standards can optimize the benefits of the local environment. The next section reviewed is named “neighborhood manners”. Here development of adjacent properties to existing residential will have particular restrictions and prohibitions to protect residential uses from disturbances related to commercial business uses. Taller structures will have to have a step down where the adjacent existing structures are shorter than the proposed development. Kelly asked Garvin if there is a difference between adjoining and adjacent. Garvin opted for adjoining and will replace all other use of adjacent. The section on water management was reviewed. It is a table that acts as a menu for certain types of water management that assign points to the applicant who choose menu items to control storm water. Chairperson Robinson really likes this applicant and feels like all the citizens need to become aware and knowledgeable of storm water management.

While the Staff has expressed some concern on this high level of standards and expect public pushback for it seeming like over regulation. They feel that some of these standards are too onerous and may cause the whole project to get stalled out. Planner Garvin said she put these new sections into Site Layout and Structure Design so the commission could see all the options and choose the pieces they saw would meet the towns needs the best. While the whole chapter sets an intention to encourage a balanced use of land and structures that reduce the impact of development on the local environment the whole chapter may be trimmed to a more personalized level of standards. Commissioner Tucker is interested in using much of the standards as a guide to future development in an appendix of the code. Tucker pointed out that the Towns own public infrastructure management needs to be addressed in developing these regulations and the practices of the Town need to mirror the regulations that are imposed on the developer. Garvin suggested it be part of the capital planning methods for the town. Conclusions of this meeting are that this discussion needs to be messaged to the public and how. The commission could start “Shall and should and what to do” categories. Robinson would really like to address this and go ahead and adopt these standards and deal with the push back. Doudy says this is too big of a change. This amount of control pushes the regulations to the limit and has the potential to stall this project and prevent us getting a new land use code. Maybe the commission can stage this farther out in the future and spend the time educating the public on best practices. Jon Kelly says to keep in mind the political perception of these controls. Maybe looking at the comprehensive plan and determining how the plan guides the town to pursue standards for development.

Kelly encourages the Commission to find facts like engineering studies and geological studies that support adopting environmental regulations.

The Commission will use the guide that Garvin prepared for the commission to use to review this section, and continue to review this Section 6 for the next meeting. When section 6 is reviewed further

by the Commission, Garvin asked them to give their feedback on: materials standards, residential standards, specifically non monotony design as well as the 2 and 3 unit structures standards and downtown setback standards using the guide to develop that feedback. Garvin will be sending out some other sections for the commission to review. Manager asks if these sections are done: parking, signs, landscaping and outdoor lighting. They need to be reviewed and prepared for public review. Then get finished with Section 6. And possibly talk further about water management.

12. PRESENTATIONS FROM OTHER ORGANIZATIONS:

12.1 PARKS COMMITTEE OR OTHER ORGANIZATIONS: none

13. NEW BUSINESS: none

14. ADMINISTRATIVE: none

15. ADJOURNMENT Chairperson Robinson adjourned the meeting at 8:45 p.m.

Linda Robinson, Chairperson

Ann Swope, Assistant Clerk