



**Gilpin County Planning Commission
Meeting Minutes**

August 11, 2020

The Gilpin County Planning Commission convened via Zoom Meeting; no physical meeting was held. A recording of this meeting is available at <https://stories.opengov.com/gilpincountyco/published/ZQ8LLnMmf>

Call to Order: Chair Jeney called the meeting to order at 7:00 p.m.

Quorum Call:

- Present: Chair Laura Jeney, Chair Pro-tem Jim Wailes, Andrea Wrobel, Shannon Arrington, Roxann Goss, Bob Haxel, David Sietsema
- Staff Present: Stephen Strohming, Senior Planner; Tami Archer, Planner

Agenda Review:

- Chair Jeney suggested changing the Short-Term Rental Regulations item under Old Business to a Public Hearing, and requested to add Zoning Regulation 3.5 – Transfer of Development Rights under New Business, and to add Comprehensive Plan Survey #2 update and Virtual Dinner with the Board of County Commissioners to Staff Updates. Commissioner Wrobel moved to approve the changes to the agenda, and the motion was seconded by Commissioner Haxel seconded the motion. The motion passed unanimously.

Minutes:

- The minutes from the July 14, 2020 meeting were discussed. Commissioner Wailes noted that the link for the location of the recorded meetings needed to be added. Commissioner Haxel moved to approve the minutes as amended, and the motion was seconded by Commissioner Arrington. The motion passed unanimously.

Commissioner Resignations:

- Chair Jeney shared that both Dorothy Sweet and Joe Marr have resigned. The vacancies have been advertised, with applications due by August 27, 2020. She noted that interviews of potential applicants should take place on September 8, 2020, most likely virtually. There was some discussion of setting up a waiting-room via a Zoom meeting.

Old Business:

A. Short-term Rental (STR) Regulations

Chair Jeney noted that this item is now a public hearing.

There was discussion regarding the appropriateness of a commissioner recusing from the vote if they are currently operating a STR. It was mentioned that every commissioner is a property owner, not recusing creates a conflict of interest issue, and that this board is advisory. Senior Planner Strohming noted that the county attorney recommended any commissioner currently

operating a STR should recuse. Commissioner Wrobel asked if there would still be a quorum if she recused, and Chair Pro Tem Wailes noted a quorum only needed 4 commissioners.

Senior Planner Strohminger presented the staff report. He noted that original staff memo from 2019 was based on the then-current regulations of Clear Creek County. He noted that the only change from the original memo was the addition of recommendations from the county assessor. Chair Jeney noted that she had spent a considerable amount of time reviewing the proposed regulations. Senior Planner Strohminger provided some background on the renewed interest in the regulations, citing the issue of some STR operators ignoring state orders to cease operations in the beginning of the Covid-19 pandemic, and the county's unsuccessful attempts to get lists of operators in Gilpin County from sites like AirB&B and VRBO. He added that the proposed regulations are very similar to Clear Creek County's regulations.

Chair Jeney noted that the changes recommended are highlighted in yellow. She also pointed out that campers and other recreational-type vehicles are specifically excluded and that an STR permit requires the structure to have a certificate of occupancy. The discussion turned to occupancy limits, including definition of what is allowed, definition of "party", whether party includes all attendees or only overnight guests, the possibility of determining yearly averages for number of occupied nights, and determining the true capacity of onsite wastewater treatment systems (OWTS). Chair Pro Tem Wailes suggested that a process be established for staff to be able to determine the appropriateness of the existing OWTS to handle the volume of guests.

Senior Planner Strohminger discussed the application process. There was some discussion regarding personal property tax declarations and also the issue of sales tax. The discussion turned to the process for obtaining an operating permit. There was some discussion on fees. Senior Planner Strohminger noted that fees are set by the Board of County Commissioners (BoCC). Commissioner Seitsema commented that fees should be pro-rated, and Senior Planner Strohminger noted other counties do no pro-rate. There was discussion regarding spreading out the workload for staff by not allowing pro-ration and instead having a permit be good for a rolling 12 months. There was consensus on the rolling 12 months.

The discussion turned to contact requirements. It was suggested to reduce the 24-hour contact distance to 30 minutes, with the rationale being to keep it local and keep local residents employed while reducing response times. There was discussion regarding definitions, and Chair Jeney requested staff get input from the county attorney.

The discussion moved to radon requirements. It was decided unanimously to strike the sentence. Discussion ensued regarding the section for parties and events, and it was suggested to add a reference to Section 2.13 of the zoning code. There was discussion regarding garbage and trash containment, and access issues concerning shared driveways and easements. It was suggested to add proof of legal access as a requirement. It was also agreed upon to add a requirement for cleaning of the premises between each use.

The discussion turned to fires. The discussions centered on controlling recreational fires, and it was decided to include language reinforcing compliance with any county restrictions.



The section addressing pets was discussed, and it was decided to add a reference to Section 2.8 of the zoning code. There was discussion of developing a Good Neighbor document, and referring to Ordinance 16-01.

The discussion moved to the section on compliance and liability enforcement. There was substantial discussion on balancing protection of the interests and liabilities for both the county and the property owners. There was consensus to strike the hold-harmless wording from the document.

There was additional discussion regarding licensing requirements. It was noted that the state also has requirements particularly around sales and lodging taxes, and as a result it is not necessary to license operators at a local level. There was minimal discussion regarding STR companies (AirB&B, VRBO) collecting and remitting taxes on behalf of the operators.

Additional discussion regarding occupancy limits ensued. The concerns regarding overuse of the OWTS systems were discussed. It was recommended to add language to the proposed regulations requiring annual operating permits for the OWTS with inspections provided by a Gilpin County licensed provider.

Discussion again turned to the number of vehicles allowed per unit. It was decided to have the wording in this regulation mirror what is currently in the zoning code.

The next section discussed focused on habitual offenders. There was some discussion regarding the definition of habitual, as well as penalties. There was also discussion regarding unfounded complaints, and how it is determined that a complaint is unfounded. After some discussion on penalties, it was decided to include fines for 2 violations within a 6 month period, and suspension of the license for 4 violations in 12 months.

Chair Jeney opened public comment at 10:17 p.m. for Zoning Code Section 2.16.

A comment was made by Kurt Duncan, 605 Patricia Road, Rollinsville Colorado.

Mr. Duncan noted that we need protection for our county residents against outside interests, observed that STRs artificially increase land values, and that outside investments can result in negative impacts.

A comment was made by Sandy Hollingsworth, 224 North County Road, Rollinsville, Colorado.

Ms. Hollingsworth noted that smoking should be addressed within the regulations, requested that the county attorney add some language that protects the liability of STR operators, requested a better definition for pets, requested more language regarding garbage and animal waste, and noted that she thought the Good Neighbor document was an excellent idea.

A comment was made by Joseph Ewald, 2170 Apex Valley Road, Black Hawk, Colorado.

Mr. Ewald requested that the zoning allowances language be clarified, suggested changing the requirement in the 24-hour contact section to miles instead of time, suggested there should be language that should include specific rules for non-local owners vs. local owners, and that language be added that identifies an appeal process for violations.



A comment was made by Patricia Eaton, 1280 Tolland Road, Rollinsville, Colorado.

Ms. Eaton requested language be added to the section addressing fire to include the requirement that a shovel with at least a 36" handle be available at all times, and that language be added addressing garbage to include recycling requirements. She briefly spoke of the impact of non-residents breaking up communities, noting that STRs can be up to 5% of the houses in a neighborhood. She requested language that offers some compromise for parties, and language that requires transparency to the neighborhood where an STR is located.

A comment was made by Karen Auvinen, 178 Upper Travis Gulch Road, Black Hawk, Colorado.

Ms. Auvinen offered her agreement with the comments made by previous parties.

A comment was made by Gail Watson, 19411 Highway 199, Black Hawk, Colorado.

Ms. Watson thanked the commission for the work they are doing on this regulation.

A comment was made by Ronald Pauley, 537 Paradise Valley Parkway, Black Hawk, Colorado.

Mr. Pauley noted his concerns with absentee owners, adherence to fire code inspections, the number of bedrooms in a property vs. the number of occupants, the number of vehicles per property, and the lack of language prohibiting recreational vehicles being used at STR sites.

An additional comment was made by Ms. Hollingsworth.

Ms. Hollingsworth asked if HOA covenants would address the existence of STRs, and if there would be a grandfathered provision. She noted she agreed with the proposed change in the language for the 24 hour contact to respond within 30 minutes, asked if there would be language addressing smoke alarm requirements, and if it would be possible for an STR operator to get a Special Use Review permit for parking.

An additional comment was made by Mr. Ewald.

Mr. Ewald asked if it was considered to have additional property taxes or a sales tax on STR permits. He also asked if there was any consideration given to differentiate between owner-occupied properties vs. those owned by business entities (i.e. an LLC), and mentioned the tax implications of boundary line eliminations.

An additional comment was made by Ms. Eaton.

Ms. Eaton suggested that out of state owners not be allowed to obtain an STR permit.

As there was no additional public comment, Chair Jeney closed the public hearing at 10:40 p.m.

There was additional discussion amongst the commissioners regarding the possibility of limiting the number of permits available to out of state owners, the need for definitions for STRs vs. long-term rentals and the possibility of that language being in the Comprehensive Plan, and whether or not STRS would require commercial zoning due to the business nature of the properties. Commissioner Seitsema noted that he feels there should be no restrictions on ownership. There was additional discussion on the difference between a "bed and breakfast" and a STR.

The following changes were requested by the commissioners to be made in the document:

- Allow an STR in any zoning district;
- Language regarding an appeals process for violations;



- Language defining pets – specifically companion animals;
- Language in the section addressing fire requiring smoking to be in a safe manner consistent with any current fire restrictions within the County, including designated smoking areas;
- Modification of the language requiring the 24 hour contact be within 20 “road” miles from the property;
- Language requiring a state sales tax license for non-platform clients; and
- The requirement that the owner’s information be provided to neighbors and guests.

The discussion turned to the need for a special meeting to make a recommendation to the BoCC after staff has updated the proposed regulations with the requested changes. It was decided unanimously to have a meeting on August 20, 2020 at 7:00 p.m. to review the revised document and make a recommendation to the BoCC. Staff was requested to make changes and have the revised document, along with an agenda, posted on the website by the close of business on August 19, 2020.

A brief discussion ensued regarding the Comprehensive Plan. The commission recommended that changes be made to the existing zoning regulations addressing fire in Section 3.15, the Public Hearing Chart in Section 1.7, and also requested closer staff review regarding the number of allowed vehicles, the transfer of development rights process, and the hours that a mobile business is allowed to operate.

New Business:

A. Transfer of Development Rights (TDRs)

There was a brief discussion regarding the current zoning regulations regarding TDRs. It was noted that this will be addressed in the new Comprehensive Plan, and that the BoCC approved a moratorium on TDRs until the Comprehensive Plan was adopted.

Public Comment:

There was no additional public comment.

Staff Updates:

Senior Planner Strohminger noted that the results from the second Comprehensive Plan survey are being tabulated. There was some discussion on upcoming meeting dates and times, as well as documents in development and the data collection timeline.

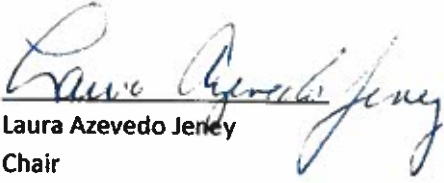
There was also discussion on possible dates for a virtual meeting with the BoCC. Chair Jeney noted that September 8th was not a good choice because of conflicts with applicant interviews for the vacant commission slots. It was noted that the need for a meeting with the BoCC should be weighed against the need to get the Comprehensive Plan completed.

Adjourn:

Commissioner Haxel motioned to adjourn and was seconded by Commissioner Seitsema at 11:42 p.m.



Respectfully submitted,


Laura Azevedo Jerney
Chair