

Minutes of the Planning & Zoning Commission
Of the City of Cherry Hills Village, Colorado
April 22, 2008
Held at 6:00 p.m.
At the Village Center

Chairman Kerry Sullivan called the meeting to order at 6:00p.m.

The following Commissioners were present: Kerry Sullivan, Kevin Iverson, Kristy Schloss, Ann Kerr, Roy Watts, Ira Plotkin, and Joe Poche. The following Commissioners were absent: None.

The following City staff members were present: City Manager Eric Ensey, City Attorney David Foster, Planning Manager Rob Zuccaro and Community Development Clerk Matthew Eckenwiler.

APPROVAL OF MINUTES

The minutes for January 8, 2008.

Commissioner Plotkin motioned to approve the minutes as presented.

Commissioner Schloss seconded the motion to approve the minutes.

The minutes were approved unanimously.

AGENDA ITEM 4A- Request by Cherry Hills Country Club, 4125 South University Boulevard, for approval of a floodplain development permit to retain a bridge located within the designated 100-year floodplain.

Mr. Zuccaro addressed the Planning and Zoning Commission stating that the Cherry Hills Country Club, located at 4125 South University Boulevard, was seeking approval of a floodplain development permit to retain a bridge that had already been constructed in early 2007 without a building permit. He explained that the bridge was located within the designated 100-year floodplain over Little Dry Creek and just north of Quincy Avenue. He said the bridge was constructed using concrete and brick veneer, replacing a wooden golf cart and pedestrian bridge at the same location. Mr. Zuccaro stated that a hydraulic analysis, which took into consideration the new bridge construction, indicated that the bridge would cause the base flood elevations (BFEs) to rise upstream without mitigation. He explained that Section 16-17-60(c)(2) of the Municipal Code specifically states that authorization shall not be issued within the one-hundred-year floodplain if any increase in flood levels during the base flood discharge would result.

Mr. Zuccaro said the applicant was proposing to mitigate this rise by excavating and grading the overbank areas on both sides of the bridge to accommodate additional conveyance during the base flood discharge. He stated that the hydraulic analysis provided by the applicant's engineer demonstrates that the proposed excavation and grading will alleviate the rise in the BFEs resulting from the new bridge construction. Mr. Zuccaro said the City Engineer (Mike Dungan, Muller Engineering Company) had reviewed that analysis and concurs with the results of the study.

Mr. Zuccaro said that Staff recommends that the Commission recommend approval of the application to City Council with a condition that the applicant's engineer provide a report and topographical survey of the resulting contours once the grading is complete demonstrating that the construction was performed in accordance with their provided hydrology analysis.

Commissioner Plotkin asked Mr. Zuccaro what the City's procedure would be if a private citizen came to the City, after construction had been conducted, to seek retroactive approval for something done without a building permit. He asked if there would be a fine or other penalties assessed for not following the proper procedure.

Mr. Zuccaro answered that there is a provision in the Code adding additional costs to permits for those who perform construction without an approved permit, however the City would attempt to work with a private citizen in much the same way staff has worked with the Cherry Hills Country Club concerning the construction of the bridge. He explained that the goal is to notify those in violation of the City's Code and to find the best possible ways to get their project into compliance with all the requirements held by the City.

Commissioner Plotkin asked that if the Commission were to approve the application, would it be setting a precedent for others in the future that may, for whatever reason, decide to perform construction without first receiving permits from the City.

Mr. Zuccaro responded that approval of this application would not set a legal precedent for future applications.

City Attorney Foster stated that the City Code does have provisions that allow for the enforcement of fines or fees in association with not pulling a building permit. He explained that by approving this application, the City would not be forfeiting its right to enforce more affirmative action with future similar incidents.

Chairman Sullivan stated that the Cherry Hills Country Club had been before the Commission on many occasions in the past. He explained that he had a hard time believing it was an oversight by the applicant not to pull a permit prior to the construction of the bridge. Commissioner Sullivan said that he did not feel comfortable with how the applicant's violation was being viewed as 'no harm, no foul' considering that the applicant's process seems to alleviate any penalty from their violation.

Commissioner Kerr wished to disclose that she was a member of the Cherry Hills Country Club and owns property adjacent to the location of bridge construction at 1601 East Quincy Avenue. Commissioner Roy Watts wished to disclose that he was also a member of Cherry Hills Country Club but had no vested interest regarding the applicant's floodplain development permit application.

Matt Lindberg
Cherry Hills Country Club Bridge Engineer
1697 Cole Boulevard
Golden, CO

Mr. Lindberg addressed the Commission explaining that he had provided the hydrology report for the applicant. He said that in the process of compiling the report, he used the most up to date hydrology models and experimented with different levels of excavation surrounding the bridge to predict and mitigate the impacts that increase base flood elevations could have on the area.

Chairman Sullivan asked Mr. Lindberg if he knew how long the original bridge had existed in the same location.

Mr. Lindberg explained that he did not know how long the original bridge had been at the Country Club, however he was aware that the new bridge was built atop the original abutments.

Mike Burke
Ground Superintendant of Cherry Hills Country Club
4125 South University Boulevard

Mr. Burke addressed the Commission explaining that he had supervised the construction project from the beginning and he did not want the City to consider his not getting a building permit an intentional action against the City. He stated that because the construction of the new bridge was nearly identical to the existing bridge, he considered his lack of action to be an oversight.

Commissioner Plotkin asked Mr. Burke to be better aware in the future of the types of construction projects that require approved building permits.

Commissioner Iverson asked Mr. Burke to explain in more detail his exceptional hardship to the need for a floodplain development permit.

Mr. Burke explained that construction of the bridge at its current location was necessary considering the configuration of the golf course and that by not having the bridge, golfers would have a much further walk along the 17th hole, which in turn would impede their normal flow of play.

Chairman Sullivan asked Mr. Burke who at the Cherry Hills Country Club was responsible for seeing that building permits are pulled for construction projects.

Mr. Burke responded that he and the general manager of the Country Club were responsible for the task.

Mr. Sullivan closed the public hearing at 6:17pm.

Commissioner Plotkin recommended approval to the City Council of the request by Cherry Hills Country Club for a floodplain development permit to allow the Club to retain the requested bridge that is located within the 100-year floodplain. Such approval shall be subject to the applicant providing a report and topographical survey with 1-foot contours, after the proposed grading is complete, showing that the construction is in accordance with the provided hydrological study and stating that the construction of the bridge and grading results in no rise in the base flood elevation. The proposed floodplain development permit is consistent with the review and approval criteria for such applications as outlined in Chapter 16, Article 17 of the Cherry Hills Village Municipal Code and as described in the Staff Findings section of the staff memorandum dated April 22, 2008.

Commissioner Iverson seconded the motion to approve the application.

Ira Plokin	aye
Ann Kerr	aye
Kerry Sullivan	aye
Roy Watts	aye
Kevin Iverson	aye
Kristy Schloss	aye
Joseph Poche	nay

6 ayes

1 nay

Motion passes and application is approved.

Reports

City Manager Eric Ensey explained to the Commission that in the most recent City Council meeting on April 15, 2008, a bill was being constructed to extend the terms of those Planning and Zoning Commissioners whose term was to expire in May 2008 to September 2008.

Commissioner Sullivan adjourned the meeting at 6:22p.m.

Kerry Sullivan
Chairman

Matthew Eckenwiler
Community Development Clerk