

Minutes of the Planning & Zoning Commission
Of the City of Cherry Hills Village, Colorado
August 26, 2008 held at 6:00 p.m.
At the Village Center

The following Planning and Zoning Commissioners were present: Ann Kerr, Kerry Sullivan, Kevin Iverson, Kristy Schloss, Joe Poche, and Ira Plotkin. The following Commissioners were absent: Roy Watts.

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

Chairman Sullivan called the meeting to order at 6:30pm.

Approval of Minutes

The minutes for April 22, 2008:

1st Motion- Commissioner Iverson motioned to approve the minutes as presented.

2nd Motion- Commissioner Plotkin seconded the motion to approve the minutes.

The minutes were approved unanimously.

The minutes for July 22, 2008:

1st Motion- Commissioner Iverson motioned to approve the minutes as presented.

2nd Motion- Commissioner Plotkin seconded the motion to approve the minutes.

The minutes were approved unanimously.

The minutes for August 12, 2008:

1st Motion- Commissioner Iverson motioned to approve the minutes as presented.

2nd Motion- Commissioner Plotkin seconded the motion to approve the minutes.

The minutes were approved unanimously.

Agenda Item 4A: Request by Susan Halstedt for approval of a floodplain development permit to allow replacement of a pedestrian bridge and bank stabilization in the designated 100-year floodplain for the property located at 1717 E. Stanford Avenue.

Mr. Zuccaro addressed the Commission stating that the applicant, Susan Halstedt of 1717 East Stanford Avenue, was seeking approval of a floodplain development permit to allow replacement of a pedestrian bridge over Little Dry Creek and the addition of bank stabilization within the designated 100-year floodplain. The bridge is used for access to a portion of the north side of the applicant's property and is an older bridge in fairly poor condition. He said the applicant had provided a hydraulic analysis as well as other supporting documentation demonstrating that the proposed construction will not cause a rise in the base flood elevation. He stated that the City Engineer has reviewed the hydraulic analysis and concurs with the finding that there will be no rise in the base flood elevations.

Mr. Zuccaro said that staff recommends the Commission recommend approval of the application to the City Council with the condition that the applicant provide a statement from an engineer upon completion of the construction confirming that the work was performed in accordance with hydraulic analysis study and there will be no increase of base flood elevation.

Commissioner Plotkin asked Mr. Zuccaro why the condition be placed on the application considering that there already exists a hydraulic analysis confirming that there will be no increase in the base flood elevation.

Mr. Zuccaro explained that the statement confirms that the construction complies with the findings of the hydraulic analysis

Chairman Sullivan requested the applicant elaborate on the bank stabilization portion of the application.

Tom Fairley
Kiowa Engineering

Mr. Fairley explained that creek banks have been eroding over the past several years creating the need for bank stabilization. He stated that the erosion had compromised one of the bridge abutments.

Chairman Sullivan asked Mr. Fairley what types of materials were going to be used to stabilize the bank and for elaboration on the extensiveness of the proposed project.

Mr. Fairley stated that riprap and boulders would be placed along the eroded areas of Little Dry Creek. He further explained that the proposed stabilization was minimal running about a 200-foot stretch beyond the bridge's location.

Chairman Sullivan asked if the bridge was going to be considerably different in size as compared to the previous bridge.

Mr. Fairley explained that the proposed bridge was slightly larger than the previous bridge, however it would not negatively impact the hydrology of the creek.

Mr. Sullivan asked Mr. Fairly if the bridge was a pedestrian bridge.

Mr. Fairly agreed and further explained that golf carts and some lawn maintenance equipment could cross over the bridge as well.

Commissioner Plotkin motioned to recommend to the City Council approval of the request by Susan Halstedt for a floodplain development permit to allow replacement of a pedestrian bridge and bank stabilization in the designated 100-year floodplain for the property located at 1717 East Stanford Avenue. Such recommendation of approval shall be subject to the applicant's engineer providing a statement after the work is completed that the construction was completed in accordance with the hydraulic study and that the grading results in no rise in the base flood elevations. 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 August 12, 2008.

Commissioner Iverson seconded the motion.

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| Ann Kerr | aye |
| Kevin Iverson | aye |
| Kerry Sullivan | aye |
| Ira Plotkin | aye |
| Joe Poche | aye |

The motion passed 5 yes and 0 no.

Agenda Item 4B: Request by Cherry Hills Country Club for approval of a floodplain development permit to conduct golf course renovations within the designated 100-year floodplain for the property located at 4125 S. University Boulevard.

Mr. Zuccaro addressed the Commission explaining that the Cherry Hills Country Club was seeking approval of a floodplain development permit to allow for renovations to the golf course. The renovations include grading changes through the golf course, the widening of paths, and updating of irrigation systems. He said that Little Dry Creek and Greenwood Gulch floodplain areas travel through the golf course.

Mr. Zuccaro said the applicant provided a hydraulic analysis which demonstrates no increase in the base flood elevation. He stated that the City Engineer has reviewed the hydraulic analysis and concurs with the finding that there will be no increase in the in the base flood elevations. He said that staff recommends the Commission recommend approval to the City Council with two conditions: the applicant must provide a letter from the Army Corps Of Engineers confirming that all necessary 404 permits have been obtained; and that the applicant's engineer provide a letter after construction is complete, confirming the work was performed in accordance with the hydraulic study and that there will be no rise in base flood elevation.

Commissioner Iverson asked Mr. Zuccaro if the Cherry Hills Village Municipal Code requires the enforcement of ensuring that a 404 permit be issued.

Mr. Zuccaro explained that the City requires that all jurisdictional permits be pulled, whether state or federal, before performing construction within the City. Mr. Zuccaro stated that Section 16-17-50 (c)(2) of the code outlines this requirement.

Jennifer Winters
Brown and Caldwell
1697 Cole Boulevard
Golden, CO 80401

Ms. Winters addressed the Commission stating that she was present to represent the Cherry Hills Country Club.

Chairman Sullivan asked Ms. Winters to explain in more detail the proposed golf course renovations.

Ms Winters explained that some minor grading changes, bunker modifications, and general maintenance and upkeep of the pathways were included in the proposed renovations.

Commissioner Plotkin wished to revert to Commissioner Iverson's concerns with the involvement of the Army Corps Of Engineers. He stated that because of Greenwood Gulch running through the Cherry Hills Country golf course, the applicant must seek approvals from the Army Corps Of Engineers.

Mr. Zuccaro explained that the applicant must submit their proposed renovations to the Army Corps Of Engineers to determine if their approval is necessary based on the scope of the work.

Commissioner Poche asked Ms. Winters if the Commission should be concerned with the proposal to add a secondary channel to Greenwood Gulch. Ms. Winters replied that the proposed secondary channel was a very minor modification and would have minimal impacts on hydrology of Greenwood Gulch.

Mike Burke
Cherry Hills Country Club

4125 South University Boulevard
Cherry Hills Village, CO 80113

Mr. Burke addressed the Commission explaining that the proposed golf course renovations were not that extensive and included laying new grass, maintaining tee boxes, laying new sand within the bunkers, widening some fairways, and placing new overlay on some areas of the cart paths. He explained that in order to meet their December 2008 deadline, Cherry Hills Country Club would drop any work requiring a 404 permit.

Commissioner Poche asked Mr. Burke if the Cherry Hills Country Club had considered any alternative materials for constructing the cart paths.

Mr. Burke replied that concrete, stamped concrete, stone pavers and other alternative materials had been considered however, asphalt provided a lower cost and matched other paths at the golf course.

Commissioner Plotkin motioned to recommend to the City Council approval of the request by the Cherry Hills Country Club for a floodplain development permit to allow golf course renovations that are located within the 100-year floodplain. Such recommendation of approval shall be subject to the following conditions:

- 1- The applicant's engineer shall provide a statement after the work is completed that the construction was completed in accordance with the hydraulic study and that the grading results in no rise in the base flood elevations.
- 2- Prior to approval by the City Council, the applicant shall provide the City with a letter from the Army Corps of Engineers indicating that all required permits pursuant to Section 404 of the Clean Water Act have been issued.

Commissioner Plotkin stated that 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 the staff memorandum dated April 22, 2008.

Commissioner Kerr seconded the motion.

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| Ann Kerr | aye |
| Kevin Iverson | aye |
| Kerry Sullivan | aye |
| Ira Plotkin | aye |
| Joe Poche | aye |

The motion passed 5 yes and 0 no.

Agenda Item 4C: Request by Lorraine E. Salazar for approval of a variance to Section 16-5-30(c) of the Municipal Code to allow a minim front yard setback of 50 feet and approval of a variance to Section 17-6-50(3) of the municipal code to allow administrative approval of a minor lot adjustment in which one of the lots does not comply with the applicable requirements for the zone district for the property located at 11 Blackmer Road.

Mr. Zuccaro addressed the Commission explaining that the applicant, Lorraine Salazar of 11 Blackmer Road, is seeking a minor lot adjustment in order to relocate the lot boundary between Lots 1 and 2 of the Highline Park Subdivision. He said the applicant owns both lots and is seeking a variance to Section 16-5-30(c) to allow the front-yard setback from the east property line of Lot 1 to be reduced from 75 to 50 feet. Mr. Zucarro explained that the applicant was also requesting a variance to Section 17-6-50(3) to allow administrative approval of a lot line adjustment in which one of the lots does not comply with the minimum front-yard setback for the R-1 zone district.

Mr. Zuccaro described to the Commission relevant history regarding the lots. He said that in 1958 both lots were approved as part of the Highline Park Subdivision. In 1959 a building permit was issued to build a single family residence spanning both lots. He stated that the house was constructed in a location that resulted in the dividing lot line bisecting the house. Mr. Zuccaro stated that in 1983 the City acquired .2 gross acres from lot 1 to be used as a parking lot and access to the Highline Canal. He said that due to the dedication of land, the minimum lot area requirement could not be met as part of their subdivision request.

Mr. Zuccaro stated that in 2007 the applicant requested a variance to the minimum lot area requirement so that the lot line could be adjusted to make the current house conforming to the setback requirement. Due to the narrowness of the resulting vacant lot, a setback variance was also requested. At that time, the Commission recommended approval of both requests. He stated that the City Council approved the minimum lot area request, but did not rule on the setback variance, as it was determined that the Municipal Code did not allow such approvals.

Mr. Zuccaro stated that since the original approval, the City Council has amended the Municipal Code to allow setback variances to be considered with subdivision approvals, but only in instances where a minimum lot area variance has been granted. He further stated that because the minimum lot area variance has already been approved, a setback variance could now be considered.

Mr. Zuccaro said that staff has provided findings and analysis for each of the review criteria in the August 26, 2008 Staff Memo and recommends the Commission recommend to the City Council approval of the application.

Commissioner Plotkin asked Mr. Zuccaro if the staff recommendation was written prior to receipt of the letter (Sherman and Howard L.L.C. dated August 25, 2008) and if it was, does the letter change staff's recommendation.

Mr. Zuccaro responded that staff's recommendation did not change as a result of receiving the letter.

Deputy City Attorney Foster stated that the letter the Commission received responding to Ms. Salazar's application mostly addressed issues related to private covenants on the property and that the Commission should only review the application using the review criteria outlined in the City Code.

Chairman Sullivan asked Mr. Zuccaro if he could explain what has changed regarding Ms. Salazar's application since it was first submitted to the City back in 2007.

Mr. Zuccaro explained that Ordinance 3 Series 2008 was adopted by the City Council allowing setback variances to be considered in a subdivision request.

Chairman Sullivan asked Mr. Zuccaro if he believed City Council's intent in adopting the ordinance was to be able to approve applications such as Ms. Salazar's application.

Mr. Zuccaro stated that he did not believe that City Council specifically adopted the ordinance to approve Ms. Salazar's application, but rather because City Council was unsatisfied with the current language relating to such issues as it existed in the Code.

Commissioner Iverson asked who determines the front, rear, and side yards of a property.

Mr. Zuccaro responded that typically the front yard is considered to be the side where the property is accessed from the street.

Discussion was held between the Commission and the applicant concerning the location of the front yard for Lots 1 and 2. Mr. Zuccaro stated because Lot 1 is accessed from Dahlia Street the front yard is along this side of the property.

Francis Salazar
11 Blackmer Road
Cherry Hills Village, CO

Mr. Salazar said to the Commission that he deeded the .2 acres of land to the City of Cherry Hills Village, now used as parking lot. He explained that now he would like to adjust the lot line on his property and is facing a hardship because of the land given to the City. Mr. Salazar said that a variance is now needed in order to allow for the minor lot adjustment and potential development of a future home on that land.

Mr. Salazar explained to the Commission that all discussion of the covenants, which are entirely private, do not relate to the minor lot adjustment for which they are seeking.

Chairman Sullivan asked Mr. Salazar if it was his intent to build a new home on the potentially vacant lot.

Mr. Salazar responded that he intends to improve the property by seeking the Commission's approval but does not intend to construct a home himself. He explained further that the application was for the benefit of a future owner.

Karyn Bristow
1 and 5 Blackmer Road
Cherry Hills Village, CO

Ms. Bristow addressed the Commission stating that she did not believe the applicant met the requirements called for in the Municipal Code and that an exceptional circumstance and hardship had not been demonstrated.

Ms. Bristow explained that she had to seek additional approvals to build a barn on her lot from the Blackmer Homeowners Association and the applicant should have to follow the same protocol. She said that the building permit application for the Salazar's single family home issued by the City of Cherry Hills Village back in 1969 states in the "remarks" section that the architectural review committee approved of the home to be constructed. She further stated that, according to the covenants, because the homeowner's association approved the two lots, the property was then considered to be only one buildable lot.

Chairman Sullivan asked Ms. Bristow how long she had lived adjacent to the Salazar's.

Ms. Bristow said that she had lived next to the applicant's property since 1999.

Chairman Sullivan asked Ms. Bristow to elaborate on her concerns with granting a variance on the Salazar's eastern lot and how it impacted her.

Ms. Bristow explained that construction of a new home would increase traffic congestion in the neighborhood, the smaller lot could negatively affect the value of their property and by approving their application, the Salazar's would not be following the requirements of the private covenants in the neighborhood.

Commissioner Schloss asked Ms. Bristow if she recently purchased 1 Blackmer Road.

Ms. Bristow explained that she had recently purchased the property and there were still tenants living in the home.

Commissioner Schloss asked Ms. Bristow if she intended to further develop 1 Blackmer Road once there is no longer anyone living at the home.

Ms. Bristow stated that she did intend to further develop the property but to maintain the rural character and appeal of the neighborhood.

Commissioner Iverson explained that the Salazar's could develop lots 1 and 2 regardless of whether the Commission approves a setback variance or not, but he wanted to know from the Bristow's how a difference from a 75-foot to a 50-foot setback adversely impacted the Bristow's property.

Ms. Bristow explained that she believed that such an approval would decrease the value of her property.

Commission Plotkin wished to clarify that the originally approved building permit for the single family home, which was constructed on lots 1 and 2, should not have been approved, however the City did approve the construction. He stated that knowing the situation with which the City currently reviews the lot, the Salazar's can still build a home on the eastern portion of the lot regardless of any variances.

Ms. Bristow stated that the original building permit for a single family home was approved along with the requirements of fulfilling the private covenants bestowed upon the property owners, which would disallow future subdivision and construction of another home on the lots.

Deputy City Attorney Foster said that the Commission was not to review, discuss, or interpret any of the private covenants placed upon any of the discussed lots. He advised the Commission to base its discussion and review of the application on the applicable Municipal Code requirements.

Ms. Bristow requested that if the Commission were to recommend approval of the application that additional language be added to the recommendation to consider adherence to the covenants of the neighborhood.

Deputy City Attorney Foster explained that the Planning and Zoning Commission should not include any language within its recommendation relating to the private covenants as they are not related to the review criteria.

Chairman Sullivan explained that a concern of his in considering approval of the application was that a future home builder may not need an additional 25 feet in order to construct a home of his choosing and a lesser amount could be adequate.

Commissioner Poche explained that by not considering the variance for these lots, a hardship could potentially be placed on a future land owner. He said that if a future owner were to seek approval for a building permit and already had the approval of this setback variance, he or she would have more flexibility when designing a home as well as save time and money not having to seek approval of a variance.

Commissioner Kerr stated to the Commission that an undeveloped lot could also be considered to adversely affect adjacent properties.

Commissioner Iverson motioned to recommend to the City Council approval of the request by Lorraine Salazar for a variance to Section 16-5-30(c) of the Municipal Code to allow the minimum front-yard setback to be reduced from 75 feet to 50 feet and approval of a variance to Section 17-6-50(3) of the municipal code to allow administrative approval of a minor lot adjustment in which one of the lots does not comply with the minimum front-yard setback standard for the R-1 zone district for the property located at 11 Blackmer Road. Approval is based on the analysis and findings outlines in the August 26, 2008 staff memorandum.

Commissioner Plotkin seconded the motion.

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| Ann Kerr | aye |
| Kevin Iverson | aye |
| Kerry Sullivan | aye |
| Ira Plotkin | aye |
| Joe Poche | nay |

The motion passed 4 yes and 1 no.

Agenda Item 4D: Resolution 1, Series 2008; a resolution of the Cherry Hills Village Planning and Zoning Commission adopting the Cherry Hills Village Master Plan.

Commissioner Kerr motioned to approve Resolution 1, Series 2008; a Resolution of the Planning and Zoning Commission of the City of Cherry Hills Village concerning the Adoption of the Cherry Hills Village Master Plan.

Commissioner Plotkin seconded the motion.

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| Ann Kerr | aye |
| Kevin Iverson | aye |
| Kerry Sullivan | aye |
| Ira Plotkin | aye |
| Joe Poche | aye |

The motion passed 5 yes and 0 no.

Chairman Sullivan adjourned the meeting at 8:10pm.

Kerry Sullivan
Chairman

Matthew Eckenwiler
Community Development Clerk