

Minutes of the Planning & Zoning Commission  
Of the City of Cherry Hills Village, Colorado  
October 28, 2008  
Held at 6:30 p.m.  
At the Village Center

Vice-Chair Iverson called the meeting to order at 6:30 p.m.

The following Commissioners were present: Ann Kerr, Kevin Iverson, Joe Poche, Laura Christman, Stephanie Blucher, and Jacque McIntyre. The following Commissioner was absent: Ira Plotkin

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

**APPROVAL OF MINUTES**

None.

**AGENDA ITEM 3A- Proposed amendment to Chapter 17 of the Municipal Code concerning the creation of procedures for review of minor amendments to subdivision plats**

Mr. Zuccaro addressed the Commission stating that the proposal to create procedures for review of minor amendments to subdivision plats was tabled at the previous Planning and Zoning Commission meeting. He said that the intent of the procedure was to provide an expedited process for minor amendments without having to go through the full subdivision process outlined in the Municipal Code.

Mr. Zuccaro said that, at the request of the Commission, staff had reviewed minor amendment procedures from surrounding municipalities and that there were varying definitions of a minor plat amendment process. Mr. Zuccaro said that some cities had an administrative review process while other cities had a formal public hearing process.

Commissioner Christman provided an example of a subdivision plat and explained that she was concerned that the proposed procedure would allow a resident to request vacation of a bridal path easement from the City without the involvement of other affected property owners within the subdivision.

Mr. Zuccaro explained that the City has a separate process for the vacation of public easements and that any such easement would not be eligible for the minor plat amendment process.

Commissioner Christman stated that she thought her example was of a private easement although that was not indicated on the subdivision plat. She said to assume that the provided example was a private easement and that under current law, the property owner vacating the portion of the easement would be required to notify all of those property owners affected by the vacation. Commissioner Christman explained that she did not believe this type of process should fall under the scope of being a minor amendment.

Vice-Chair Iverson stated that notification was required for all contiguous lots.

Mr. Zuccaro explained that the intent of this procedure was to create an accelerated process. He further explained that the proposed process would not allow all minor subdivision plat amendments to be approved but rather it would present a more reasonable option for applicants considering they did not have to go through the full subdivision process.

Commissioner Christman stated that it was very important that if such a process is approved, affected property owners get notification as well as the opportunity to sign-off their approval of

the proposed amendment. She further explained the property lender must also sign-off on an amendment to a subdivision plat.

Vice-Chair Iverson asked Commissioner Christman to clarify the lender signature requirement.

Commissioner Christman said that the consent of the lender was important in case of a foreclosure.

Mr. Zuccaro stated that a lender signature is already required for plats and would be required for the proposed procedure.

Vice-Chair Iverson stated that he was concerned with the notification of contiguous lots. He said that an amendment to a subdivision plat should affect not only contiguous lots, but any lot indicated on the subdivision plat.

Mr. Zuccaro gave an example of a lot with a view corridor easement and how an application to amend that easement would only affect those property owners in the direction of that view corridor easement. He said that in such an instance, not all property owners on the subdivision plat are affected by the proposed minor plat amendment.

Commissioner Christman made the argument that other property owners may be affected by the view corridor easement in some way without the knowledge of the property owner or the City staff who process the minor plat amendment. She said that she understood that the proposed procedure was to aid future applicants by helping them to save time with the process. Commissioner Christman said that her major concern was to make certain that the procedure would not be abused.

Vice-Chair Iverson wished to discuss with the Commission the provision in the procedure that allows the City Manager to initiate a minor subdivision plat amendment. He said that if the City is going to initiate the application, the City should be responsible for the financial obligations of the application.

Vice-Chair Iverson said that the impact on adjacent or affected property owners should be added to the list of criteria necessary to seek approval for a minor subdivision plat amendment.

Vice-Chair Iverson stated that he was concerned with the reference to the Master Plan and the interpretation of the City Council as to whether an application conformed to its goals and strategies. He said that he did not believe the Master Plan, which can be interpreted in several different ways, should be within a criteria process for enforcing Code.

Commissioner Christman said that she believed that the City Council would want the Master Plan referenced while making their determination.

Commissioner Poche said that by listing the Master Plan in the review criteria codifies the document.

The Commission agreed that the criteria related to the Master Plan should match the language in the "Purpose" stated at the beginning of the subdivision chapter.

The Commission agreed that the notice procedures should include notification of all property owners who are part of the plat and all property owners affected by the modification to an easement.

Discussion was also held regarding whether review criteria related to the impact of an amendment on neighboring properties should be included. The Commission agreed that such criterion should be included.

Mr. Zuccaro requested clarification that all affected property owners be notified and that there

would not be a sign-off requirement unless required for legal reasons.

Vice-Chair Iverson said that he believed that all contiguous properties and all properties indicated on a subdivision plat should be notified of proposed plat amendments.

Commissioner Christman suggested that all homeowner's associations should also be notified of a minor subdivision plat amendment. She explained that it was necessary to provide proof that an attempt was made to notify the association.

Vice-Chair Iverson suggested that the requested changes be made and the request brought back at the next meeting for the Commission's final review.

**AGENDA ITEM 3B- Proposed amendment to Chapter 16 of the Municipal Code concerning the addition of a definition for "natural grade"**

Mr. Zuccaro explained that the term natural grade is used throughout the City's Code referencing most often the allowed heights for structures, fences, and berms. He said that the allowed maximum height in all zone districts is 30' (feet) from natural grade. He said that the reason height calculations are measured from the natural grade of a lot is so that a property owner may not build up grade on a given lot, increasing the height for a new structure. He explained that the natural grade is the grade prior to any fill or excavation of a lot.

Mr. Zuccaro explained that a common construction practice in the City is to scrape house on a lot and rebuild new home on the same lot. He said that the City is often faced with architects and builders who propose construction of new homes with height calculations from the existing grading on the lot, instead of the initial grade prior to the original construction on a lot. He further stated that the grade on these lots are often raised around the homes for drainage purposes and that the existing grades needed to be interpolated to determine what the natural grade was before the original home was constructed. Mr. Zuccaro stated that by having a definition of natural grade in the Code, the City could reference and better explain what is required in order to fulfill the City's height regulations.

Vice-Chair Iverson asked Mr. Zuccaro what options an applicant has in an instance where an applicant disagrees with staff's height calculation.

Mr. Zuccaro explained that an applicant may appeal the City staff's decision to the Board of Adjustments and Appeals.

Discussion was held by the Commission regarding over-lot grading and its relevance with natural grade.

Vice-Chair Iverson asked Mr. Zuccaro if a definition of over-lot grading should be added to the Code as well.

Mr. Zuccaro explained that he did not believe that having a definition of over-lot grading would be necessary. He said that if staff had to consider an over-lot grading plan when calculating the height of a proposed structure, this language is usually indicated on the subdivision plat.

The Commission approved the addition of the definition of natural grade as presented.

Vice-Chair Iverson adjourned the meeting at 8:05 p.m.

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Kevin Iverson

Vice-Chair

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Matthew Eckenwiler  
Community Development Clerk