Minutes of the Planning & Zoning Commission
Of the City of Cherry Hills Village, Colorado
Tuesday, May 12, 2009
Held at 6:30 p.m.
At the Village Center

Chairman Plotkin called the meeting to order at 6:30p.m.

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

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

APPROVAL OF MINUTES

The minutes for March 10, 2009

1st Motion- Commissioner Christman motioned to approve the minutes.

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

The minutes were approved unanimously.

AGENDA ITEM 4A- Study Session: Attachment of Accessory Structures to Main Residence

Mr. Zuccaro addressed the Commission stating the first study session item for review was the attachment of accessory structures to a main residence via breezeways. He explained that the Code's definition of an accessory use or structure is a detached subordinate structure located on the same zone lot with the principal building for a use which is customary and incidental to the use of the principal building. Mr. Zucarro said that the City has historically viewed any attachments between what would be considered an accessory structure and the principal building to be one building where the accessory use building is not counted toward the allowed number of accessory structures on a lot. He said that the attachments are often made by construction of a breezeway or trellis attachment.

Mr. Zuccaro explained that the attachments have at times been used to, in effect, increase the allowed number of accessory structures on a lot. He said that, for example, in the R-1 2 ½ acre residential zone district, a lot is limited to 3 accessory structures and 1,100 square feet of area. Mr. Zuccaro said that by construction a breezeway or trellis attachment between buildings, the limit of allowed accessory structures is avoided. He stated that such construction practices did not pose a problem to the City in the past, however a recent building permit with breezeway attachments of 100 feet and 60 feet appear to be outside the intent of the zoning ordinance.

Mr. Zuccaro said the Commission was provided with a site plan illustrating an example of a recent building permit application that was approved in which such attachments were viewed as a concern. Mr. Zuccaro said that the City's zoning ordinance did not specifically state a limitation to the length of an attachment and staff recommends that the Commission review the example and zoning ordinance and considered a possible Code amendment.

Mr. Zuccaro stated that staff outlined 3 potential actions for the Commission to consider, which included leaving the zoning Code as it is written, amending the Code to include a limitation to the length of an allowed attachment between an accessory structure and the principal building,

and amending the Code so that all attachments have to illustrate a complete attachment and be fully integrated with the principal building.

Mr. Zuccaro explained that a supplemental staff memo was provided outlining the policies of three other cities related to the attachment of accessory structures to the main building. He stated that in Greenwood Village the attachments must be fully integrated with the principle structure through an attached foundation, architectural continuity and a connecting wall or roof element. Greenwood Village had contemplated a maximum length of attachment, but had not settled on a number. Mr. Zuccaro stated that Edmonds, Washington had earlier this year passed an ordinance limiting the connection of an accessory structure to the principal structure to a maximum of 10 feet. He stated that in Edmonds these connections were being used to get around the otherwise applicable height standard for accessory structures. Mr. Zuccaro also explained that in the third example of Atascadero, California a policy has been put in place stating that a connection of an accessory structure via breezeway is not considered attached.

Commissioner Bluher asked if the City could consider a standard of reasonableness when it comes to the length of attachment.

Mr. Zuccaro said that staff had considered this but was concerned that this would be arbitrary and that they would prefer that the code address the issue specifically.

Commissioner Bluher asked if the City had ever reviewed an application with attachments that were of a similar length as the example provided.

Mr. Zuccaro said that he was not aware of any such examples and that he thought the typical attachment would be around 20 feet in length.

Commissioner Bluher stated that she supported a Code amendment that would give staff a limitation to enforce.

Commissioner Christman said that she was concerned with the current regulation that limits the allowed number of accessory structures on a lot. She explained that if the property owner had a large lot that they could accommodate more accessory structures without creating an impact. Commissioner Christman pointed out that in the example provided in the packets that the property was large enough to be subdivided and more than one home could be built. She said that the current limitation to the number of accessory buildings that can be constructed was better suited for a much smaller lot.

Mr. Zuccaro pointed out that the zoning ordinance allows lots that are between 5 and 10 acres to have one additional accessory structure, bringing the total number allowed to 4, and the allowed accessory structure area is increased form 1,100 to 1,800 square feet.

Commissioner Christman explained that a larger home could have also been constructed on the lot. She mentioned that the Residential Design Standards Committee (RDSC) may be including accessory structures into a potential floor area ratio (FAR) regulation.

Mr. Zuccaro said that in his review of other cities' zoning ordinances, he had found a couple of cities that did not place a limitation on the allowed number of accessory buildings so long as the principle and accessory buildings met a maximum lot coverage requirement. He also stated that he found instances when the total coverage of accessory structures was based on a percentage of the size of the main residence.

Commissioner Iverson stated that he was concerned with the current limits on accessory structures. He said that if applicants had a larger allowance for accessory structures then the attachments that were of concern would be less common or possibly eliminated.

Mr. Zuccaro said that staff's recommendations are based on the current code requirements and limitations and that the focus of the discussion should be on whether the breezeway attachments

were a way of subverting the code, and if so, how to fix the code. Mr. Zuccaro said that staff thought that the spirit and intent of the code was not being met if the length of attachment was too large.

Commissioner Iverson stated that under the existing zoning Code, a property owner could build a structure from setback to setback, covering the majority of a lot. He asked that if a property owner can cover the majority of a lot using such an example, what difference is made if a property owner were to build one house with multiple structures covering the lot. Commissioner Iverson pointed out that the RDSC is possibly already reviewing or will review accessory structures in connection with an FAR requirement. He asked Mr. Zuccaro if staff thought that the current discussion regarding accessory structures and the length or their attachments needed immediate review or would staff agree that the Commission should wait on making any formal recommendations until a report is given to City Council from the RDSC

Mr. Zuccaro explained that the RDSC has discussed accessory structures, but was focusing on regulations limited to the main residence. He said that he was not certain whether the RDSC would ultimately make any recommendations on accessory structures.

Chairman Plotkin gave an example of allowing a maximum accessory attachment length of 30-feet for a 2 ½-acre lot and allowing a proportionally larger attachment length based on the size of the lot. He said that using the 9-acre lot example, the property owner would be entitled to a 90-foot attachment. Chairman Plotkin said that using the provided site plan, the property owner has used 170-feet of attachment total. He said that he did not feel comfortable proposing a limitation to the length of an attachment unless an equation was established allowing an maximum length base on the size of the lot.

Commissioner Christman stated that she did not oppose the attachment illustrated on the site plan example although she did oppose forcing property owners to build such lengthy attachments so as to conform to the accessory structure requirements.

Mr. Zuccaro referred to the site plan example stating that if the applicant had not proposed any attachments between the three out-buildings and the principal building, they would be constructing up to 8 accessory structures. He said that when the zoning regulations were adopted, the City Council chose to limit accessory structures, and staff is not certain that spirit and intent of this limitation is accomplished with extensive breezeway connections. Mr. Zuccaro explained that changing any other limitations was outside the scope of the discussion that staff intended to bring to the Commission.

Commissioner Christman said she thought the Commission should wait on making any recommendations until the RDSC has the opportunity to draft a report that may offer solutions to the attachment length issue.

The Commission discussed the concepts of floor area ratio zoning and how it could help to restrict the length of attachments between accessory structures and main residences.

Chairman Plotkin asked for clarification from Mr. Zuccaro that the City's concern was the length of the attachment and not whether an accessory building is attached or detached.

Mr. Zuccaro confirmed that he thought the length of attachment was the main issue and that the concept of allowing an attachment was already an accepted practice in the City.

Commissioner McIntryre asked Mr. Zuccaro if the property used in the example could be subdivided and accessory structures built on the adjacent lots.

Mr. Zuccaro responded that accessory structures are not allowed to be built on a lot without a principal building.

Chairman Plotkin asked Mr. Zuccaro to clarify if the City was more concerned with amount of attachments being constructed on a given lot or if the concern was for the individual length of a single attachment.

Mr. Zuccaro answered that the City was more concerned with an individual attachment that exceeds a reasonable length. He said that the City has seen 20 to 30 foot attachments but that an attachment of 60 to 100 feet may not meet the intent of the code.

After further discussion, the Commission requested that staff approach the RDSC to ask if the Committee will be making recommendations on the issue, and if so, the Commission would wait for the RDSC final report before taking any action.

AGENDA ITEM 4B- Study Session: Retaining Wall Design Standards

Mr. Zuccaro addressed the Commission explaining that the next item was to review possible design standards for retaining walls. He said that staff received several comments from concerned residents regarding retaining walls being constructed at 15 Lynn Road. Mr. Zuccaro explained that the retaining walls ranged in height between 3-feet and 12-feet, with combined tiers of the walls exceeding 12-feet when view from the south side of the property. He said that the City does not regulate the design of retaining walls except that a structural review must be performed for any wall over 4-feet in height. Mr. Zuccaro said that staff wants the Commission to consider whether some type of design standard for retaining walls should be developed.

Commissioner Iverson asked if he could have an explanation of the purpose of a retaining wall.

Chairman Plotkin said that he had a retaining wall on his own property and it was built to hold back soil from a higher location on his lot.

Commissioner Christman added that retaining walls help to maximize the use of a sloping property. She gave an example of using a retaining wall to flatten out a portion of a sloping property in order to accommodate a tennis court. Commissioner Christman discussed how other communities, such as Seattle, and other communities in California have more extreme slopes and large retaining wall are more common.

Chairman Plotkin mentioned how the retaining walls for the property at 15 Lynne Road were set back significantly and located within the building envelope.

Commissioner Iverson asked whether the retaining walls were below the natural grade for the property and if they are above the natural grade if they are subject to the City's fence rules.

Mr. Zuccaro responded that some of the retaining walls were above the natural grade and based on the definition of "fence" in the zoning code that retaining walls were not subject to the fencing standards.

Commissioner Iverson asked if, for example, he were to construct a pool in his back yard within the building envelope if he could construct a solid fence around the pool.

Mr. Zuccaro responded that a solid fence could be constructed around the pool with a maximum height of 6 feet.

Commissioner Iverson asked whey the City couldn't use the same logic for retaining walls.

Commissioner Christman asked whether the retaining walls used for daylight basements would be an issue if they could not be seen by anybody because they usually aren't visually offensive.

Chairman Plotkin noted that these types of walls could be quite large, but that they could possibly be terraced.

Commissioner Iverson mentioned that technically someone could build up to a 30 foot retaining wall within the building envelop, which is allowed for any structure in the building envelope, and that he thought the Commission should consider limiting the height to 6 feet within the setbacks. He stated that there should be a difference in how retaining walls are treated in and out of the setbacks.

Commissioner Christman noted that retaining walls couldn't necessarily follow all of the fencing design standards because they can't be 50% open, and therefore, it may be appropriate to have other landscaping standards.

Mr. Zuccaro asked for clarification on whether the general intent of the Commission was to have standards in the setback, but no standards in the building envelop, and if the standards in the setbacks should be those already created for fences.

The Commission expressed that this should be the general direction for drafting the code amendment.

Reports

Mr. Zuccaro explained to the Commission that at the next meet, the Commission will have an annual review of the Cherry Hills Village Master Plan. He said that at that meeting the Commission can decide what topics of the plan that it wants to review.

Chairman Plotkin noted that the Council had recently amended the code to give the Council final approval authority of the Master Plan.

Chairman Christman suggested that staff propose a prioritization of the topics to be addressed.

Commissioner Plotkin adjourned the meeting at 7:52p.m.

Ira Plotkin
Chairman

Robert Zuccaro
Planning Manager