Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 26, 2011 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chairman Ira Plotkin called the meeting to order at 6:31 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chairman Ira Plotkin, Vice Chair Laura Christman, Commissioner Ann Kerr, Commissioner Joe Poche, Commissioner Jim Rubin and Commissioner Peter Savoie.

Present at the meeting were the following staff members: Rob Zuccaro, Community Development Director; David Foster, Deputy City Attorney; Emily Kropf, Community Development Clerk; and Abe Barge from Winter and Company.

Nine residents were also in attendance.

Absent was Commissioner Jacque McIntyre.

APPROVAL OF MINUTES

Vice Chair Christman made a motion, seconded by Commissioner Kerr, to accept the March 22, 2011 minutes as written. The motion passed unanimously.

AGENDA ITEMS

Request by Star Tree Trust of 4600 S. Monroe Lane for a Floodplain Development Permit to Construct Detention Pond Outlet Swales within the Special Flood Hazard Area

Mr. Zuccaro stated that Star Tree Trust, owner of the property at 4600 S. Monroe Lane, had requested approval of a floodplain development permit to construct detention pond outlet swales within the Special Flood Hazard area. A Phase III Drainage Report was approved by the City as part of a building permit application to construct a new home on the property.

The Drainage Report originally included detention pond outlet pipes that were to be installed below grade within the floodplain. However, it was discovered that the topography of the site could not accommodate the below grade outlet pipes and swales had been proposed in their place.

Mr. Zuccaro said that staff had found that the proposed swales would not result in a rise in base flood elevations or the disturbance of wetlands. Staff recommended approval of the permit subject to the condition that the applicant's engineer provide a statement when work is completed that the construction was completed in accordance with the hydraulic study and that the swales result in no rise in the base flood elevations.

Mr. Zuccaro said that the City Engineer was present if any of the Commissioners or residents in attendance had questions or comments regarding the proposed floodplain development.

Mr. Torrey with WRC Engineering introduced himself as the applicant's engineer.

Vice Chair Christman asked who had made the determination that the 404 permit from the Army Corps of Engineers was not required for the construction of the swales. She continued that according to the letter issued by CTL Thompson, Inc., any construction that could impact neighboring Greenwood Gulch would require the 404 permit.

Mr. Torrey responded that he did not believe that the permit was required because the construction was not located in the gulch but nearby. He said that he would obtain the proper paperwork from the Army Corps of Engineers if necessary.

Mr. Zuccaro stated that the hearing could be rescheduled or the permit could be approved subject to the condition that the matter of the 404 permit is resolved.

Chairman Plotkin stated that the Commission had a motion to recommend to City Council approval of the request for the floodplain development permit to allow construction of stormwater detention pond outlet swales within the Special Flood Hazard area on property located at 4600 S. Monroe Lane, subject to two conditions:

1) The applicant's engineer provides a statement after the work is completed that the construction was completed in accordance with the hydraulic study and that the swales result in no rise in the base flood elevations.

2) The applicant submits the 404 permit to City Council or provides an official letter stating that the 404 permit is not required for the proposed floodplain development.

Commissioner Rubin seconded the motion, which was unanimously approved.

Study Session for Proposed Changes to City's Zoning Standards

Mr. Zuccaro stated that the purpose of the study session was to discuss several adjustments made to the proposed zoning standards that the Commission asked Winter and Company to examine during the previous meeting.

Mr. Barge said that the first adjustment to the proposed zoning standards is the front area depth of the bulk plane in the R-1, R-2 and R-3 zone districts. Based on existing conditions in these zone districts, as well as feedback from architects and homebuilders, the front area depth was increased from 42' to 50'. After a review of building permits issued between 2005 and 2009, it was found that quite a few homes would not fit within the 42' front area depth. In R-4 and R-5, however, it was found that almost all homes would fit within the 42' standard.

Mr. Barge explained that the second adjustment is the floor area ratio (FAR) in R-3, R-4 and R-5. The FAR was increased from .23 to .27 in R-3 and from .27 to .30 in R-4 and R-5. The FAR was not increased in R-1 and R-2 because it was found that close to 100% of existing homes in these districts would conform to the new standard.

The third adjustment is the exemption of accessory structures from the FAR. Mr. Barge stated that this exemption is consistent with other communities and will allow additional flexibility. He added that detached accessory structures tend to create less of an overall perceived mass.

Mr. Barge continued that there would be additional exemptions for nonconforming lots. He recommended that the City allow at least 3,000 square feet for building primary and accessory structures on these properties.

Mr. Barge stated that there are several measurement systems that the City could adopt in regards to the proposed zoning standards.

Commissioner Savoie suggested that the topic of measurement be addressed at a later date.

Commissioner Rubin asked Mr. Barge to briefly discuss the subject.

Mr. Barge stated that there had been some discussion about potential measurement systems. The City sought a system that would encourage simplicity and effectiveness. In regards to height, the bulk plane can be measured from a single elevation or multiple elevations.

Vice Chair Christman asked how measuring height from multiple elevations would eliminate the issue of looming structures.

Mr. Barge responded that the bulk plane discourages homes from being built close to the setback. As a result, structures would not be located close to the property line creating a looming effect.

Mr. Barge stated that the Residential Development Standards Committee (RDSC) recommended that 50% of the area of aboveground basements be applied towards the FAR. Mr. Barge added that structures located underground do not contribute to the concerns expressed by residents.

Mr. Barge said that the proposed zoning standards were generally less restrictive in comparison to other communities, such as: Lake Forest, Illinois; Winter Park, Florida; and Scarsdale, New York.

Commissioner Rubin stated that according to the RDSC report, 97% of new construction would conform to the proposed zoning standards. He said that this seems to suggest that new construction is not an issue.

Mr. Zuccaro responded that the majority of the homes in the City are not an issue. The upper 3% of "outliers" in the community have been identified as problematic, however.

Mr. Barge said that there was some confusion regarding the percentage of homes in the City that would conform to the proposed standards. According to the RDSC report, over 90% of all homes would conform. In R-3, R-4 and R-5, only 40 to 50% of new homes would conform.

Commissioner Savoie stated that he would like to see additional data regarding new construction from the past few years.

Commissioner Poche asked whether the Commission would be willing to consider separate standards for each zone district.

Mr. Barge responded that the bulk plane could be more permissive in R-1, R-2 and R-3.

Vice Chair Christman said that she was not sure that the residents of R-3 and R-4 want an increase in building height. She would like to see further input from the community.

Mr. Barge responded that he was surprised from the feedback he had received from residents following the public input meeting on March 2nd. He found that a number of individuals supported the increase in building height if combined with the use of a bulk plane and FAR.

Vice Chair Christman continued that she was not sure if residents were even aware of the proposed changes.

Mr. Zuccaro stated that he had recently presented the proposed standards to the Cherry Hills East Homeowner's Association.

One resident in attendance, Mr. Larry Whitey, President of the Cherry Hills North Homeowner's Association, stated that there are several looming structures in his neighborhood as a result of new construction.

Chairman Plotkin suggested that the majority of the concerns were originating from R-3 and R-4. He believes that the proposed standards will be unnecessarily restrictive in R-1 and R-2.

Vice Chair Christman responded that Chairman Plotkin has an issue with the FAR rather than the bulk plane.

Chairman Plotkin said that because the bulk plane and FAR are inextricably linked, he has an issue with both.

Commissioner Savoie responded that the bulk plane could be adopted without the FAR and vice versa but that the original intent of the RDSC was to use them together. He continued that a large house can still be built in R-1 with the proposed standards. Additionally, no homes in R-1 have exceeded the recommended limit.

Chairman Plotkin stated that the proposed standards would create uniformity throughout the City based on R-3 and R-4.

Commissioner Rubin said that the proposed standards would increase the distance between homes, which can be considered a positive effect.

Chairman Plotkin responded that it would be possible to increase the distance between homes with the bulk plane alone.

Commissioner Kerr stated that omitting the FAR could still result in "outliers".

Commissioner Savoie said that although the residents of R-1 may not have the same concerns as those of R-3, it is still an issue that needs to be addressed.

Public Comments

Ms. Maureen William, resident of R-3, said that her neighbor recently constructed a house that covers approximately 80% of his lot. She said that her property has been negatively impacted as a result. There are three lots surrounding Ms. William's property that are currently for sale. She said that she is concerned that her property will suffer further due to new construction.

Mr. Howard Schirmer, resident of R-1, stated that he supports the recommendations but feels that they are too restrictive. He continued that he is opposed to an increase in building height. He feels that homes should be limited to two stories that do not exceed 30'. He also suggested that the City take into account sustainability when drafting the zoning ordinance.

Ms. Nina Itin, resident of R-3, said that she supports the proposed zoning standards. Ms. Itin lives on the other side of the property Ms. William described. She stated that if the bulk plane had been adopted prior to the construction of her neighbor's house, several issues could have been avoided, including her loss of view and declining property value.

Mr. Steve Syzmanski, member of the RDSC, stated that the Committee examined several issues when finalizing its recommendations. The Committee was responsible for balancing property rights with the rights of the community. Mr. Syzmanski continued that the bulk plane can be adopted by itself, but the front area depth should not be increased to 50'. He added that if the bulk plane is adopted an increase in height of 35' is necessary for design purposes.

Ms. Tracy James, member of the RDSC, stated that the City has examined building standards for the past 11 years but has not taken action. She said that it is important to preserve what the City's Master Plan identified as a "semi-rural" characteristic. Ms. James stated that she supports the use of a bulk plane and FAR in all zone districts.

Mr. Foster stated that the City has already placed limitations on homeowners' ability to build. The proposed zoning standards are another layer of that regulation. He continued that homebuilders and architects will make the necessary adjustments if the proposed standards are adopted.

Mr. Barge asked the Commissioners to identify what they found to be an appropriate front area depth for the bulk plane in each zone district. He also asked the Commissioners to identify what they found to be an appropriate FAR for each zone district.

Commissioner Savoie stated that he supports a 50' front area depth in R-1, R-2 and R-3. He does not think the FAR should be increased in R-3, R-4 or R-5.

Commissioner Poche said that he does not believe that a bulk plane should be used in R-1 and R-2 but supports a front area depth of 42' in R-3, R-4 and R-5. He supports a FAR of .50 in R-1 and R-2. He believes that the FAR should be increased by 5 to 10% in all other zone districts.

Chairman Plotkin stated that he does not believe that a bulk plane should be used in R-1 or R-2. He supports a front area depth of 50' in R-3, R-4 and R-5.

Vice Chair Christman supports a front area depth of 50' in R-1 and 42' in all other zone districts. She believes that there should be a FAR of .23 in R-2 and R-3 and a FAR of .30 in R-4 and R-5.

Commissioner Kerr stated that she supports a front area depth of 50' in all zone districts. She believes that there should be an increase in the FAR in R-1 and R-2. She said that R-3, R-4 and R-5 should have a FAR of .23.

Commissioner Rubin also supports a front area depth of 50' in each of the zone districts if the FAR is used, as well. He supports a FAR of .23 in R-1, R-2 and R-3 and a FAR of .30 in R-4 and R-5.

Mr. Barge asked the Commissioners if they thought that accessory structures should be included or excluded in the FAR.

Commissioner Rubin stated that accessory structures should be excluded.

Commissioner Poche agreed.

Commissioner Savoie disagreed and stated that accessory structures should be included in the FAR.

Chairman Plotkin suggested that the discussion be continued during the next study session.

ADJOURNMENT

A motion was made by Vice Chair Christman and seconded by Commissioner Savoie to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 9:33 p.m.

Ira Plotkin, Chairman

Emily Kropf, Community Development Clerk