Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, May 31, 2011 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chairman Ira Plotkin called the meeting to order at 6:30 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 and Commissioner Peter Savoie.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; David Foster, Deputy City Attorney; and Emily Kropf, Community Development Clerk.

Three residents were in attendance.

Absent were Commissioners Jacque McIntyre and Jim Rubin.

APPROVAL OF MINUTES

Vice Chair Christman made a motion, which was seconded by Commissioner Kerr, to accept the May 10, 2011 minutes as written.

The motion passed unanimously.

AGENDA ITEMS

Review of Proposed Tree Preservation Ordinance

Mr. Zuccaro stated that staff was presenting for consideration and recommendation to the City Council an ordinance for the preservation of established trees during construction of new residences and major additions.

Mr. Zuccaro continued that on May 10th the Commission held a study session to discuss the previous draft of the tree preservation ordinance. As a result of the Commission's discussion, two changes were made to the ordinance:

1) The area of applicability changed from the entire lot and adjoining right-of-way to the setbacks (yards) and adjoining right-of-way.
2) The replacement rate was changed from 2:1 to 1.5:1 inches of replacement tree caliper to Established Tree caliper removed.

Mr. Zuccaro continued that the City Attorney made a few language changes but did not change the substance of the ordinance.

Mr. Zuccaro asked if the Commission had any questions regarding the ordinance.

Commissioner Poche asked if an exception could be established in which a resident could remove a tree that is located in the setback or right-of-way if it interferes with the placement of a driveway without having to replace it.

Mr. Zuccaro responded that the resident could apply for a variance to the ordinance or relocate the tree to another area on the property.

Commissioner Poche asked if the Commission felt that these two options would work effectively.

Chairman Plotkin asked if applying for a variance would still be a viable alternative.

Mr. Zuccaro responded yes.

Chairman Plotkin asked if the Commission had any additional questions.

Chairman Plotkin stated he would entertain a motion to recommend the proposed tree preservation ordinance to the City Council.

Commissioner Kerr made a motion to recommend the ordinance as outlined in Exhibit A to the May 31, 2011 staff memorandum.

Commissioner Savoie seconded the motion.

The motion passed unanimously.

Review of Proposed Retaining Wall Ordinance

Mr. Zuccaro stated that staff was presenting for consideration and recommendation to the City Council an ordinance establishing retaining wall standards.

Mr. Zuccaro continued that on May 10th the Commission held a study session to discuss retaining wall ordinances from other cities and provide staff with direction on drafting an ordinance. Several concepts from the Commission's discussion have been incorporated in the ordinance, including:

1) A minimum setback is provided for all retaining walls at a ratio of 4 units of setback to 3 units of height. The setback for tiered retaining walls is to be calculated by the combined height of the tiers.
2) The allowed height of retaining walls in the setback is limited to six feet above natural or finished grade, whichever is most restrictive.
3) The allowed height of retaining walls in the building envelope is the same as the height limit for accessory structures. Retaining walls over six feet in height must be tiered.
4) Fences on top of retaining walls in the setback will be limited in height to six feet above natural grade. Within the building envelope, fences more than six feet in height above natural grade will be allowed only if the fence is a required "Guard" per the City's Building Code.

Vice Chair Christman asked if the ordinance states that a "Guard" must meet the minimum height required as defined by the City's Building Code.

Mr. Zuccaro responded yes. He continued that the intent of the ordinance was to promote the minimum height necessary for "Guards".

Vice Chair Christman stated she would like to see a clarification of the minimum height requirement.

Chairman Plotkin asked if any retaining wall six feet in height would have to be setback at least eight feet.

Mr. Zuccaro responded that a retaining wall six feet in height would have to be setback eight feet from the property line unless it was placed in the building envelope.

Commissioner Savoie asked if any retaining wall located in the setback could be over six feet in height.

Mr. Zuccaro responded no.

Mr. Zuccaro continued that there are several examples of shorter retaining walls in the City that are set close to shared property lines that would not be allowed if the ordinance was adopted as written.

Chairman Plotkin asked how many would be considered non-conforming.

Mr. Zuccaro responded that he did not know. He asked if the Commission would like to establish an exception for shorter walls.

Commissioner Savoie stated that the formula of 4 units of setback to 3 units of height works for walls of all heights. He continued that an exception is not necessary.

Vice Chair Christman stated that from a mass standpoint, she has concerns regarding fences located on top of retaining walls. She is opposed to the concept of two closed materials.

Mr. Zuccaro responded that an openness policy could be incorporated into the ordinance. He continued that fences located on top of retaining walls could be required to be at least 50% open.

Commissioner Savoie asked if a "Guard" is defined in the City's Building Code.

Mr. Zuccaro responded yes. He continued that the ordinance could state that a "Guard" located on top of a retaining wall cannot be taller than the minimum requirement. He added that an openness policy could also be applied to "Guards".

Chairman Plotkin asked if Vice Chair Christman would support recommending the ordinance to the City Council with the proposed changes or would she prefer for staff to modify the ordinance and present it to the Commission again at a later date.

Vice Chair Christman said that she would support recommending the ordinance to the City Council with the proposed changes.

Chairman Plotkin stated he would entertain a motion to recommend the proposed retaining wall ordinance to the City Council with the clarification of the minimum height requirement for "Guards" and incorporation of an openness policy.

Vice Chair Christman made a motion to recommend the ordinance as outlined in Exhibit A to the May 31, 2011 staff memorandum.

Commissioner Poche seconded the motion.

The motion passed unanimously.

REPORTS

Bulk Plane and Floor Area Ratio (FAR) Ordinance Update

Mr. Zuccaro stated that staff and the City's consultants were continuing to work on the Bulk Plane and FAR ordinance and gathering additional background information as requested by the Commission.

Mr. Zuccaro continued that a complete draft of the ordinance is expected to be presented for review at the next meeting on June 14th.

Chairman Plotkin asked if the FAR for the R-1 zone district could be increased to .30.

Mr. Zuccaro responded that he would make the adjustment.

PUBLIC COMMENTS

Mr. David Wyman, a resident of the City, stated that the proposed tree preservation ordinance has overlooked several issues. He continued that a replacement ratio of 1.5:1 should not be enforced for trees that are considered weeds like Russian Olive Trees.

Commissioner Savoie responded that there are several exemptions that do not have to be replaced, including Russian Olive Trees.

Mr. Wyman asked the Commission how the ordinance would affect individuals who are interested in xeriscaping. He continued that the ordinance promotes water consumption. Mr. Wyman added that a replacement ratio of 1.5:1 can result in an over-planted community. He continued that trees would have a difficult time surviving in such an environment. He also expressed concern for the replacement of trees located near the Highline Canal that could be considered weeds.

Chairman Plotkin stated that the Residential Development Standards Committee (RDSC) had recommended a tree preservation policy in an attempt to preserve the City as a tree community. He continued that there would be a public hearing at the City Council before the ordinance was voted on.

Mr. Steve Szymanski, resident of the City and member of the RDSC, stated that it was not the intent of the RDSC to penalize residents with dead or dying trees. He continued that a clarification regarding dead or dying trees and weeds could be added to the ordinance. Mr. Szymanski stated that the preservation of trees was intended to maintain privacy in the City and encourage the preservation of trees during redevelopment.

ADJOURNMENT

Chairman Plotkin stated he would entertain a motion to adjourn.

Commissioner Kerr made a motion of adjourn, which was seconded by Vice Chair Christman.

The motion passed unanimously.

The meeting adjourned at 6:57 p.m.

Ira S. Plotkin

Ira Plotkin, Chairman

Emily Kropf

Emily Kropf, Community Development Clerk