Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 14, 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 Jacque McIntyre, Commissioner Jim Rubin and Commissioner Peter Savoie.

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

Residents Nina Itin, Andy Love, Steve Szymanski, Maureen Williams and Greg Williams were also in attendance.

Absent were Commissioners Ann Kerr and Joe Poche.

## APPROVAL OF MINUTES

Vice Chair Christman made a motion, which was seconded by Commissioner Savoie, to accept the May 31, 2011 minutes as written. The motion passed unanimously.

## AGENDA ITEMS

*Review of Proposed Bulk Plane and Floor Area Ratio Ordinance*

Mr. Barge stated that staff was seeking the Commission's recommendation of the proposed Bulk Plane and Floor Area Ratio ordinance. The ordinance includes the Bulk Plane and Floor Area Ratio (FAR) standards with a few adjustments as recommended by the Commission.

Mr. Barge continued that the Bulk Plane included a starting height in the front area of 21 feet and a starting height in the rear area of 12 ½ feet in all zone districts except R-5 where the starting height was 12 ½ feet for the entire Bulk Plane. The Bulk Plane Front Area Depth had been adjusted to 50 feet in R-1 and R-2 and 42 feet in R-3 and R-4. Mr. Barge added that the FAR had remained at .23 in R-1, R-2 and R-3 and had been increased to .30 in R-4 and R-5.

Mr. Barge said that staff was also seeking feedback regarding the measurement of the Bulk Plane and FAR. The Commission could recommend measuring the Bulk Plane based on grading. Gently sloping or flat lots that have less than a 5 to 7% grade could be measured using one set of measuring points. Sloping lots that have greater than a 5 to 7% grade could be measured using multiple sets of measuring points, which would allow the Bulk Plane to slope with the lot.

Mr. Barge continued that the FAR includes all above-ground, interior floor area of the primary structure, as well as attached garages and livable attic spaces. High volume areas, (i.e. vaulted ceilings and other virtual floor area) will be counted twice in the FAR. There

are a number of structures that will not be counted in the FAR, including: detached accessory structures, open porches, balconies, breezeways and basements. Any area that has an exterior wall (i.e. walk-out basements) that is at least 4 feet above grade will be counted in the FAR.

Mr. Barge said that approximately 95% of existing homes in all zone districts in the City would conform to the FAR standard. He continued that close to 100% of homes in R-1 and R-2 would conform. If the ordinance is adopted, the greatest impact on new construction would occur in R-3 and R-4. Up to 40% of homes built in these zone districts since 2005 would not conform to the new standards. There are several homes that are very close to conforming, however. Mr. Barge presented several illustrations in order to test the proposed standards.

Vice Chair Christman stated that a representative of one homeowner's association (HOA) in R-4 had opposed an increase in the allowed building height during a previous meeting. The proposed ordinance increases the building height from 30 to 35 feet. She continued that she would not like to increase the building height unless there is an overwhelming desire from the community to do so.

Commissioner Savoie agreed and said that an increase in building height could be overwhelming on smaller lots.

Mr. Zuccaro stated that he did not know how many residents in R-4 would be in favor of or opposed to an increase in building height.

Vice Chair Christman said that the representative of the HOA had been opposed to an increase in building height, but another resident of R-4 who had attended a previous meeting had been in favor of it.

Mr. Barge stated that there are a number of HOA covenants in R-4 and R-5 that would restrict residents from building above 30 feet even if there was an increase in building height.

Commissioner Savoie responded that the intent of the Residential Development Standards Committee (RDSC) when recommending an increase in building height was to provide a compromise for the use of the Bulk Plane and FAR. If residents were willing to give up a percentage of floor area, they would receive an increase in building height in return.

Chairman Plotkin asked Mr. Barge to return to the R-1 illustration and explain how it violates the City's semi-rural characteristic.

Mr. Barge stated that he could not answer on behalf of the community. Residents have expressed such concerns, however.

Chairman Plotkin said that it seems as though the City is trying to create restrictions solely based on one house located in the R-3 zone district. He continued that the City is creating language to satisfy taste.

Mr. Barge responded that after speaking with several residents, it seems as though there is an ongoing problem in the community, and the Bulk Plane and FAR resolve that issue.

Mr. Zuccaro stated that the RDSC was asked to address a number of issues identified by the City Council. He continued that Mr. Barge was unable to answer policy questions that the City Council had raised. Mr. Zuccaro stated that a joint study session with the City Council might be beneficial if the Commission would like to discuss policy.

Chairman Plotkin responded that the City is creating technical standards to enforce a semi-rural policy.

Mr. Zuccaro answered that the technical standards being proposed are aimed at addressing a semi-rural policy.

Chairman Plotkin responded that the policy focuses on preserving views and maintaining open space.

Commissioner Savoie stated that the RDSC examined similar communities that sought to address these issues. The RDSC's recommendation was actually more lenient than what was proposed in the majority of other communities.

Chairman Plotkin asked if the R-1 illustration violates the preservation of views and solar access.

Commissioner Savoie responded yes. He continued that the views and solar access of the houses located in R-4 are being violated by the large structure in R-1.

Chairman Plotkin stated that the large structure in R-1 should be moved rather than changed.

Mr. Barge responded that moving the house was one option. He added that the Bulk Plane and FAR standards could be met by moving the house and not architecturally altering it.

Commissioner Savoie said that if the house was moved further away from the setback, the issue of looming would be reduced.

Commissioner Rubin stated that only a few homes in R-1 and R-2 would not conform to the Bulk Plane and FAR standards. The proposed regulations could prevent large homes from ever being constructed, which would improve the neighborhood rather than taking away from it.

Chairman Plotkin stated that the concerns of residents could be resolved by increasing setbacks.

Commissioner Rubin said that the proposed standards are extremely liberal and can stop individuals from building the largest homes possible and impacting neighbors.

Chairman Plotkin stated that in regards to the FAR, he thought that the FAR had been increased to .27 in R-1 and R-2.

Vice Chair Christman responded that the FAR had not been increased to .27 in R-2.

Commissioner Savoie stated that increasing the FAR in R-1 sets a negative precedent. He continued that he agrees with Chairman Plotkin that the majority of the problem lies within R-3, R-4 and R-5. He asked if the majority of the homes that exceed the FAR are less than 1 acre and stated that it is important to understand why they exceed the FAR.

Mr. Zuccaro responded that in order to conform to lot area requirements, lots only have to meet 80% of the minimum lot area, including the Right-of-Way. The net lot area includes the property, excluding public streets. Approximately 60% of homes in the City do not meet net lot area requirements, which is why the City measures gross lot area.

Commissioner Savoie asked if the FAR will be based on gross lot area.

Mr. Barge responded no. He stated that the FAR will be based on net lot area. He added that there are only a couple of homes in R-1 and R-2 that would be non-conforming in regards to the FAR.

Mr. Zuccaro asked if the Commission would like to hear comments from the residents in attendance.

Chairman Plotkin responded yes and asked to hear any public comments.

Mr. Andy Love, resident of the City, stated that he had served on the Commission for almost 10 years as both Commissioner and Chairman and also had a background in real estate. While serving on the Commission, he had heard several complaints that the houses in the City were too big and that they were blocking solar access on neighboring properties as a result. He stated that the City had been facing this issue for some time. Mr. Love continued that the proposed ordinance is attempting to create standards for all houses in the City instead of the few that have been identified as problematic. Mr. Love stated that he was opposed to the proposal.

Mr. Greg Williams, resident of the City, stated that he disagrees with Mr. Love. Mr. Williams continued that he lives next door to one home in R-3 that has been repeatedly discussed due to its size and impact. He believes that government intervention is appropriate when development is left to its own devices, and he has to live with the outcome on a daily basis. He added that the residences that are currently being constructed are simply too big for the lots. Residents are in need of guidance from the City to limit new development. He strongly supports the Bulk Plane and FAR standards.

Chairman Plotkin responded that everyone recognizes that the home located in R-3 is a problem. He asked if a problem located in R-3 should be addressed in R-1 and R-2.

Mr. Williams said that it seems as though R-1 and R-2 have a greater margin for construction as they are larger lots of similar size. The portion of R-1 that is located next to R-4 is a problem. He added that someone might try to push the envelope in R-1 or R-2 someday and build the largest house possible.

Commissioner Savoie asked Chairman Plotkin if someone built a 50,000 square foot home in R-1, would he be inclined to change his mind regarding the proposed standards.

Chairman Plotkin responded no. He continued that he is in more inclined to support the Bulk Plane rather than the FAR.

Vice Chair Christman stated that the ordinance is partly about what the community wants. The community wants open space. If the residents did not want to maintain open space, then the FAR could be eliminated, as well as the semi-rural characteristic of the City. With the FAR, a 25,000 square foot home can still be constructed. As a homeowner, Vice Chair Christman stated that the City's semi-rural characteristic is very important to her.

Chairman Plotkin asked if a 25,000 square foot home can be considered semi-rural.

Vice Chair Christman responded yes. She continued that if the house is surrounded by enough land, it can still be considered semi-rural. She added that the City is not attempting to limit design.

Ms. Nina Itin, resident of the City, stated that she is in complete agreement with Vice Chair Christman. She believes that the Bulk Plane and FAR would work incredibly well together. R-1 could face the same issues that R-3 is currently facing at some point in the future. In regards to property value, there are negative effects associated with larger homes

no matter which zone district they are located in. Ms. Itin added that she pays higher property taxes in order to live in a semi-rural community.

Mr. Steve Szymanski, resident of the City and member of the RDSC, stated that he had a technical comment regarding the increase in building height. He agrees with Commissioner Savoie that an increase in building height in R-4 might be overwhelming, but the increase was only intended to be at the highest point of the Bulk Plane.

Mr. Zuccaro said that staff was seeking direction from the Commission regarding a change in building height in R-4 and any changes in FAR based on new construction data.

Chairman Plotkin supports increasing the building height to 35 feet in R-4.

Vice Chair Christman supports keeping the building height at 30 feet in R-4.

Commissioner Rubin supports increasing the building height to 35 feet in R-4.

Commissioner McIntyre supports keeping the building height at 30 feet in R-4.

Commissioner Savoie supports keeping the building height at 30 feet in R-4.

Mr. Zuccaro asked if the Commission felt that the FAR should be adjusted based on new construction data.

Chairman Plotkin responded that there was no consensus regarding the FAR at this time and that the meeting would need to be adjourned due to Commissioner Savoie needing to leave for a prior engagement.

**REPORTS**

Mr. Zuccaro stated that there were no reports.

**ADJOURNMENT**

Chairman Plotkin said he would entertain a motion to adjourn.

Vice Chair Christman made a motion of adjourn, which was seconded by Commissioner McIntyre. The motion passed unanimously.

The meeting adjourned at 7:35 p.m.

Ira S. Plotkin

Ira Plotkin, Chairman

Emily Kropf

Emily Kropf, Community Development Clerk