Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 28, 2011 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chairman Ira Plotkin called the meeting to order at 6:37 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: Robert Zuccaro, Community Development Director; David Foster, Deputy City Attorney; Emily Kropf, Community Development Clerk; and Abe Barge from Winter and Company.

Two residents were also in attendance.

Absent was Commissioner Jacque McIntyre.

APPROVAL OF MINUTES

Vice Chair Christman made a motion, which was seconded by Commissioner Kerr, to accept the June 14, 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 presenting for recommendation to the City Council an ordinance establishing Bulk Plane and Floor Area Ratio (FAR) zoning standards for the R-1, R-2, R-3, R-4 and R-5 zone districts.

Mr. Barge continued that the current draft ordinance includes an increase in the allowed height of structures in R-1, R-2 and R-3. The allowed height has been increased to 35 feet in these zone districts. The Bulk Plane remains unchanged and has 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 is 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 remains at .23 in R-1, R-2 and R-3 and has been increased to .30 in R-4 and R-5.

Mr. Barge stated that approximately 95% of existing homes in all zone districts would conform to the proposed FAR standard. He continued that close to 100% of existing and newly constructed 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 standard. There are several homes that are very close to conforming, however.

Mr. Barge said that the proposed ordinance also includes different measurement schemes based on the average slope of the lot. Gently sloping or flat lots that have less than a 7% grade will be measured using one set of measuring points where the Front Area Depth and

side setback meet. Sloping lots that have greater than a 7% grade will be measured using multiple sets of measuring points, which would allow the Bulk Plane to slope with the lot. The measuring points will be where the front and side setback meet; where the Front Area Depth and side setback meet; and at the rear of 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.

Commissioner Poche asked if it matters which side of the house the exposed wall of the basement is on. He said that walk-out basements historically do not exist on the front side of homes.

Mr. Barge responded that the Commission may want to adjust the terminology in order to clarify what is considered a walk-out basement.

Mr. Barge stated that during the previous meeting, there was some discussion regarding the intent of the proposed standards. He continued that the intent of the Bulk Plane is to reduce the looming impact of neighboring structures; preserve the views of the City; preserve solar access; and promote privacy. The intent of the FAR is to preserve the semi-rural character of the City and retain open space. Lastly, the intent of the Bulk Plane and FAR together is to reduce the mass, scale and impact of neighboring structures and encourage a variety of building forms.

Mr. Barge asked if the Commission had any questions or concerns about the proposed standards. He added that during the previous meeting it was suggested that the intent of the ordinance was to only limit outliers in the community. Mr. Barge stated that the Commission might want to discuss this issue further.

Mr. Barge also suggested that the Commission might want to discuss the consideration that the proposed standards might be too restrictive if new construction is proving to be slightly larger than the proposed FAR. Mr. Barge stated that if the FAR in R-3 was increased to .25, only 22% of newly constructed homes would be non-conforming. If the FAR in R-3 was increased to .27, only 17% of newly constructed homes would be non-conforming. Lastly, if the FAR in R-3 was increased to .30, only 8% of newly constructed homes would be non-conforming.

Commissioner Poche asked where the R-3 and R-4 zone districts are located in the City.

Chairman Plotkin responded that the majority of R-4 is located east of the Village Center.

Mr. Zuccaro presented a zoning map to the Commission. He identified the majority of R-3, which is located to the south and west of the Village Center.

Chairman Plotkin asked if either of the residents in attendance would like to address the Commission.

Ms. Maureen Williams, resident of R-3, stated that she recently discovered that at the time her residence was built, there was a 20% lot coverage restriction for homes located in the R-3A zone district. In 2003, this standard was eliminated. She continued that in order to abide by the restriction, she built a hacienda-style residence. Ms. Williams believes that some type of lot coverage limitation should be reinstated. She stated that she supports the

proposed Bulk Plane and FAR ordinance and believes it should be enforced in every zone district in order to promote consistency.

Mr. Zuccaro stated that the City still enforces a lot coverage restriction for lots that do not conform to the minimum lot area requirement. He continued that when Ms. Williams' home was built, an 80% lot area exemption did not exist. The exemption states that homes that meet 80% of the minimum lot area, including Right-of-Way, are not considered non-conforming lots as a result. Ms. Williams' home was likely considered a non-conforming lot at the time and subject to the restriction. Most homes in the City are no longer subject to the restriction due to the exemption.

Commissioner Savoie asked if certain odd-shaped lots in the City would be particularly difficult to administer if the proposed ordinance was adopted.

Mr. Zuccaro responded that the majority of lots are not overwhelmingly problematic.

Chairman Plotkin stated that the Commission can vote to recommend the ordinance as proposed or with edits to the City Council.

Vice Chair Christman made a motion to recommend to City Council approval of the proposed Bulk Plane and FAR ordinance as proposed.

Commissioner Rubin seconded the motion.

Chairman Plotkin voted no.

Commissioner Poche voted no.

Commissioner Savoie voted yes.

Vice Chair Christman voted yes.

Commissioner Kerr voted no.

Commissioner Rubin voted yes.

Commissioner Poche stated that his concern is that the draft ordinance needs to be modified. He continued that the current standards will negatively impact real estate value. He added that the Bulk Plane and FAR limitations need to be increased.

Chairman Plotkin stated that his concern is that the Residential Development Standards Committee (RDSC) only received feedback from approximately 6% of residents. He continued that these individuals want to maintain open space, but it is not their property. He added that if an individual wants open space, he or she has to purchase it.

Vice Chair Christman asked if only 6% of residents care about the semi-rural character of the City.

Chairman Plotkin responded that only 6% took the time to respond to the RDSC's focus groups and surveys.

Vice Chair Christman stated that a larger percentage of residents participated in the meetings that the City hosted to establish its master plan, which promoted a semi-rural character. She continued that if the Commission chooses to disregard the RDSC's recommendation, it is also disregarding the City's master plan.

Commissioner Poche stated that he is concerned with the decline in property value as a result of the new standards.

Ms. Williams stated that her property value has suffered as a result of her neighbor's development.

Commissioner Kerr stated that R-3 seems to be the problematic zone district. She believes that with some minor adjustments, the number of non-conforming lots could be cut in half. She added that there is no indication that future construction will continue to be as large as recent development.

Vice Chair Christman stated that there are already looming structures in R-1.

Commissioner Kerr responded that these homes appear to be in compliance with the proposed standards. She continued that the City is trying to limit development in zone districts where there is not an issue. She added that the FAR in R-3 should be increased.

Vice Chair Christman stated that R-2 is close to becoming an issue due to the lack of covenants in the zone district.

Commissioner Kerr suggested that the FAR in R-3 be increased to .25. She continued that the recommended FAR in the other zone districts is reasonable.

Commissioner Rubin stated that the proposed ordinance is fair and will help reduce the number of looming structures and their impact on neighbors. He believes that the standards will increase the value of the City rather than taking away from it.

Commissioner Kerr made a motion to recommend to the City Council approval of the proposed Bulk Plane and FAR ordinance with the change that the FAR in R-3 is increased to .25.

Commissioner Savoie seconded the motion.

Chairman Plotkin voted no.

Vice Chair Christman voted yes.

Commissioner Rubin voted yes.

Commissioner Kerr voted yes.

Commissioner Poche voted no.

Commissioner Savoie voted yes.

Chairman Plotkin stated that the motion to recommend the approval of the ordinance has passed.

REPORTS

Mr. Zuccaro stated that there were no reports at this time.

ADJOURNMENT

Chairman Plotkin asked when the next meeting would be scheduled for.

Mr. Zuccaro responded that there was no new business pending.

Chairman Plotkin said that he would entertain a motion to adjourn.

Commissioner Kerr made a motion to adjourn, which was seconded by Commissioner Poche. The motion passed unanimously.

The meeting adjourned at 7:35 p.m.

Ira Plotkin, Chairman

Emily Kropf, Community Development Clerk