

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, October 8, 2013 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chair Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chair Laura Christman, Commissioner Jim Rubin, Commissioner Steve Szymanski and Commissioner David Wyman.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; Marcus McAskin, Deputy City Attorney; Troy Carmann, City Engineer; and Emily Kropf, Special Projects Coordinator.

Absent were Vice Chair Peter Savoie and Commissioner Al Blum.

APPROVAL OF MINUTES

Commissioner Wyman made a motion, which was seconded by Commissioner Szymanski, to accept the September 10, 2013 minutes.

The motion passed unanimously.

AGENDA ITEMS

Request for Rezoning of 512 Square Foot Portion of Lot 7, Block B, Cherry Hills Park, from R-2, 1 ¼-Acre Residential District to R-1, 2 ½-Acre Residential District for Purpose of Selling and Consolidating Property with the South One-Half of Tract 5, Camenisch Gardens

Mr. Zuccaro stated that the first agenda item is a rezoning request by the Estate of William D. Hewit and the William D. Hewit Descendants Trust for a 512 square foot triangular portion of Lot 7, Block B, Cherry Hills Park, from R-2, 1 ¼-Acre Residential District to R-1, 2 ½-Acre Residential District. The purpose of the request is to allow consolidation of the parcel with the South ½ of Tract 5, Camenisch Gardens. If the request is approved, the homeowner would need to execute a Minor Lot Line Adjustment plat, which would be reviewed by staff administratively. The plat has been reviewed by staff and is conditionally approved pending the outcome of the rezoning request.

Mr. Zuccaro said that a request for a zone map amendment is to be referred to the Commission for review and recommendation to City Council. The Commission may hold a public hearing at its discretion upon a vote of the majority of the Commission. The procedures for a rezoning request are provided in Municipal Code Section 16-2-40. There are four possible reasons to justify a zone change request: a change in the area conditions, error in original zoning, conformance to the Master Plan for the area and suitability of the site to the proposed use. Staff has found that a change in conditions and error in original zoning do not apply to the request, but conformance to the Master Plan and suitability of the site do apply.

Mr. Zuccaro continued that the Master Plan Future Land Use/Development Map labels the property as Low-Density Residential, which is defined as single family residential land use on parcels of one acre in size or larger – typically zoned R-2 or R-3. Staff finds that the proposal to rezone from a higher to a lower density district and consolidate with a lower density zoned lot is consistent with the property's Master Plan land use category. The lot that the subject property is to be consolidated with is labeled Rural-Density Residential, which is defined as single-family residential land use on parcels of 2 ½ acres in size or larger – typically zoned R-1. Both properties would still comply with the minimum lot area requirements if the transfer took place.

Mr. Zuccaro stated that the homeowner purchasing the parcel currently lives at 20 Cherry Hills Drive and owns the South ½ of Tract 5, which currently consists of landscaping and a tennis court. The consolidated parcels could be developed with a residence and accessory structures under current zoning. The addition of the parcel would slightly impact where the minimum setbacks are located on the lot. Staff finds that the lot would still be in conformance with the overall character of the neighborhood because the minimum setbacks would still have to be met if development occurred.

Mr. Zuccaro continued that staff recommends approval of the request based on the findings and analysis as outlined in the staff memo. He asked if the Commission would like to open a public hearing.

Chair Christman stated that a public hearing is not necessary because no one has signed up to speak. She asked if the applicant would like to address the Commission.

Mr. Charlie Gallagher, resident of 20 Cherry Hills Drive, said that he maintains the South ½ of Tract 5 as open space for the neighborhood. The portion that is proposed to be rezoned has been an issue as he has not been able to irrigate or mow it. There are also two fences located a few feet from other another due to the separate ownership. The residents of 7 Cherry Hills Drive have agreed to sell the parcel in order to consolidate the land.

Chair Christman asked if the Commission would like to discuss the request.

Commissioner Wyman asked if Cherry Hills Drive runs between 20 Cherry Hills Drive and the South ½ of Tract 5.

Mr. Gallagher replied yes.

Commissioner Szymanski said that the proposal seems like good business.

Commissioner Wyman made a motion to recommend to the City Council approval of the request by the Estate of William D. Hewit and the William D. Hewit Descendants Trust to rezone an approximately 512 square foot portion of Lot 7, Block B, Cherry Hills Park from R-2, 1 ¼-Acre Residential District to R-1, 2 ½-Acre Residential District as proposed. The Commission finds that the rezoning is in conformance with the Master Plan and the property is suitable for the proposed use, as outlined in the Staff Analysis section of the October 8, 2013 staff memorandum.

Commissioner Szymanski seconded the motion, which was approved unanimously.

Proposed Amendments to Article XVII of the Zoning Ordinance Concerning the City's Floodplain Management Regulations

Mr. Zuccaro stated that the second agenda item is an ordinance amendment to Article XVII of the Zoning Ordinance concerning the City's Floodplain Management Regulations. The amendments would update the Municipal Code to be consistent with National Flood

Insurance Program (NFIP) requirements and Colorado Water Conservation Board (CWCB) Rules for Regulatory Floodplains in Colorado (Rules). The changes in the updated regulations pertain to new and updated definitions, notice and record keeping requirements, floodplain development requirements and regulations for critical facilities.

Mr. Zuccaro continued that the floodplain development requirements now state that the lowest flood elevation of a commercial building must be at least one-foot above the base flood elevation rather than at the level of the base flood elevation. The City has already adopted this requirement for residential structures. The updated Rules also provide restrictions for critical facilities (i.e. police/fire/government facilities, schools, etc.), which are required to be located outside of the floodplain.

Mr. Zuccaro stated that the City's current floodplain regulations already go above and beyond some of the NFIP minimum requirements. The City currently prohibits development in the floodplain unless a floodplain development permit has been granted, which requires that the applicant demonstrate hardship and that development will not cause a rise in the floodplain. Staff recommends approval of the proposed amendments updating the City's Floodplain Management Regulations to be consistent with the CWCB adopted Rules. Mr. Zuccaro added that the City Engineer is present if the Commission has any questions.

Chair Christman asked if development can occur in the floodplain if the site is filled-in.

Mr. Zuccaro replied yes. He added that it would require going through the City's floodplain development permit process and amending the floodplain boundary through the Federal Emergency Management Agency (FEMA).

Chair Christman asked what the meaning is of "newly studied reach" on the second page of the proposed ordinance under the definition of floodway.

Mr. Carmann responded that "newly studied reach" refers to any new hydraulic analysis or study. He continued that the definition limits the rise of water surface in the floodway. The CWCB allows for a one-half foot rise. The City does not permit any rise.

Chair Christman asked how residents will understand the regulations. She also added that "floodplain" should be capitalized throughout the ordinance to refer to the definition.

Mr. Zuccaro said that "floodplain" can be capitalized.

Chair Christman stated that historic structures should be defined. She asked what the meaning of "historic structure" is in the ordinance.

Mr. Carmann replied that the CWCB had an issue with applying the regulations to historic structures only identified in the state registry. The Rules allow communities to decide what "historic structure" refers to.

Chair Christman said that the City does not have a definition of a "historic structure".

Commissioner Szymanski agreed that the lack of a definition could create a problem.

Chair Christman asked if the Commission should establish an applicable definition.

Mr. Zuccaro said that a definition could be added.

Mr. Carmann responded that the CWCB would support the community having a definition of "historic structure" in order to apply the regulations to various structures.

Chair Christman stated that Quincy Farms is a designated historic structure.

Commissioner Rubin asked if the changes that occurred to the floodplain maps a few years ago had been finalized and approved.

Mr. Zuccaro replied that the floodplain maps were amended in December, 2010. He added that amendments have historically occurred every 15 or 20 years.

Chair Christman asked if there will be amendments due to the recent flooding.

Mr. Carmann responded that rebuilding will be a significant issue because the amendments will not occur immediately.

Commissioner Rubin asked if any flooding occurred in the City.

Mr. Zuccaro replied that the City did not receive any reports of flooding.

Mr. Carmann added that the existing stormwater infrastructure was able to handle the additional rainfall.

Commissioner Wyman said that it was fortunate that the CWCB limited water in the Highline Canal after the rainfall began.

Chair Christman stated that she would like to incorporate the definition of "historic structure" in the motion.

Commissioner Wyman asked if the first sentence of Municipal Code Section 16-17-60 should be reinstated.

Chair Christman asked if local historic designations should be added in addition to structures listed in the National Register and state inventory.

Deputy City Attorney McAskin stated that "historic structure" is currently defined in Municipal Code Section 16-17-30 as any structure that is listed in the National Register, certified by the Secretary of the Interior or listed in a State or local inventory of historic places.

Chair Christman replied that "historic" should be capitalized throughout the ordinance to refer to the definition.

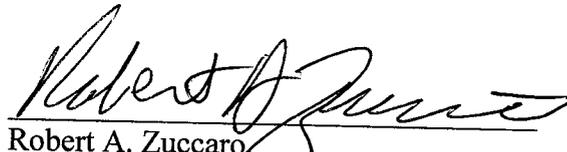
Commissioner Szymanski made a motion to recommend to the City Council approval of the proposed amendments to Article XVII, Chapter 16 of the Cherry Hills Village Municipal Code, updating the City's Floodplain Management Regulations to be consistent with the CWCB adopted Rules, as drafted in Exhibit A to the October 8, 2013 staff memorandum with the condition that "floodplain" and "historic" are capitalized.

Commissioner Rubin seconded the motion, which was approved unanimously.

ADJOURNMENT

The meeting was adjourned at 7:01 p.m.


Laura Christman, Chair


Robert A. Zuccaro
Community Development Director