

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday March 25, 2014 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chair Christman called the meeting to order at 6:33 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chair Laura Christman, Vice Chair Peter Savoie, Commissioner Al Blum, 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 Cesarina Dancy, Community Development Clerk.

Absent from the meeting were Commissioner Steve Szymanski, Commissioner Jim Rubin and Commissioner Kassie Jensen.

APPROVAL OF MINUTES

Vice Chair Savoie made a motion, which was seconded by Commissioner Blum, to accept the February 25, 2014 minutes as written. The motion passed unanimously.

AGENDA ITEMS

George W. Calkins Trust Subdivision Preliminary Plat Review (5100 E Quincy Ave). Continued from February 25, 2014 meeting.

Deputy City Attorney McAskin stated that the meeting tonight is a continuation of the meeting that took place on February 25, 2014 which was then continued to March 11, 2014. Due to a lack of quorum on March 11, 2014, the meeting was continued until tonight. Due to the fact that a month has elapsed since the original hearing, he asked if any Commissioners had had any contact and/or communication that could compromise their ability to render an impartial decision. He continued that if they have had any such communication, they should disclose the nature of said communication.

Chair Christman stated that she had someone asked her if they could attend tonight's meeting. She told them yes but this meeting was closed to public comment.

Deputy City Attorney McAskin asked if that discussion would have any impact on her decision making.

Chair Christman replied no.

Deputy City Attorney McAskin stated that there were three emails which were included in a memo from Mr. Zuccaro which were received after the deadline of February 25, 2014. He continued that these three emails should be struck from the record and not considered in the decision making process. He continued that the authors of the three emails were: Garret Gee.,

Breck Larson, and Kathryn Springer. He continued that the emails that were received prior to February 25, 2014 should be considered.

Chair Christman asked if the authors of the emails which were struck from the record could be contacted to let them know.

Deputy City Attorney McAskin replied yes.

Chair Christman stated that the Commission would open discussion.

Commissioner Blum asked if the changes in fencing design from the previous meeting were part of the record.

Mr. Zuccaro replied that yes those changes were noted in the minutes which were just approved. He continued that any clarifying questions of the applicant can be asked during this meeting.

Vice Chair Savoie stated that he would like to proceed by placing forward any issues of concern, and discussing them individually. He continued that three issues of concern to him are the fence height and material, the location of the green space/ pocket parks and the setbacks of the houses which border Quincy Ave., particularly Lot 7.

Vice Chair Savoie asked if there were any additional issues.

Chair Christman stated that the driveway and line of sight issues which were of concern were previously addressed by the applicant with fencing, landscaping and sight triangles.

Chair Christman asked if the Commission needed to further review the recommendations made by the PTRC.

Commissioner Blum stated that the PTRC had four conditions: the height limits of vegetation, the pocket park located adjacent to the private road, the transfer of the pocket park from the southwest corner to the northeast corner, and fencing style and material.

Vice Chair Savoie asked if Mr. Zuccaro could clarify the PTRC conditions.

Mr. Zuccaro stated that the minutes of the PTRC meeting are in the packets, as well as on pages 9-10 of the staff memo. The four conditions are as follows:

1. The vegetation along E. Quincy Ave. between the property line and the perimeter fence shall be limited to six feet in height.
2. The pocket park along the private road shall be moved no less than 20 feet to the north to enhance the view corridor.
3. The area of the pocket park in the southwest corner of the subdivision (minus the area for a trail easement) shall be transferred to an equivalent area on the northeast section of the property to maintain the view corridor along the Quincy Trail.
4. The fencing along E. Quincy Ave. shall be limited to split rail type fencing.

Mr. Zuccaro continued that the applicant has agreed to conditions 1, 2, and 4.

Commissioner Wyman stated that he is concerned that the majority of the lots do not contain the minimum 2 ½ acres required in the R-1 district when the adjacent right of ways are netted out. He continued that this does not lend itself to a low density rural atmosphere.

Commissioner Wyman stated that the parks and trails requirement is through the use of easements not deeded property. He continued that the use of easements not along the perimeter
Planning and Zoning Commission Meeting

of the property will be detrimental to homeowners as they would not have full use of their property. He continued that the city should not approve this.

Commissioner Wyman stated that by reducing the plat by one lot and using that land as public space all easements could be contained in that one area. He continued that it is not a good idea to share property lines with the public.

Vice Chair Savoie summarized that there are six issues outstanding: fence height and material, the setbacks for the homes bordering Quincy Ave., moving the location of pocket park from southwest to northeast, driveways on Quincy Ave, the lots which are nonconforming, and easements versus deeded property.

Commissioner Blum stated that the fence issue has been resolved.

Vice Chair Savoie stated that the fencing issue needed to be clarified and the Commission needs to be very specific on what they want in regards to fencing.

Chair Christman asked Mr. Zuccaro to clarify the PTRC recommendations on the fencing as well as the location of the green space.

Mr. Zuccaro stated that the PTRC recommended that the open space located at the southwest corner of the property minus the trail easement be relocated to the northeast corner of the property in order to preserve view corridors. He continued that the applicant has not agreed to this condition yet but has proposed an alternative which will limit landscape height in the northeast corner of the property to preserve the view, while keeping the pocket park in the original location.

Chair Christman asked if the PTRC indicated exactly where and how much land should be moved to the northeast corner.

Mr. Zuccaro stated that the PTRC did not give explicit detail, only to say that an equivalent size parcel of land be utilized. They did not draw a new proposal.

Vice Chair Savoie asked if the PTRC had seen the new proposal.

Mr. Zuccaro stated that they have not seen it yet.

Chair Christman asked if the PTRC request was agreed upon how much acreage would be required to take the trail to the corner and how would that affect lot 7 which is listed at 2.72 acres.

Vice Chair Savoie stated that the trail would be netted out of the acreage.

Commissioner Blum stated that the land in question could be moved and would still leave 2.25 acres in lot 7.

Chair Christman asked was the private road included in the acreage of the lots.

Mr. Zuccaro replied that only public right of ways up to a maximum of 30 feet are included in the acreage.

Vice Chair Savoie asked was the gross acreage calculated from the lot line to the center of all any adjacent streets.

Mr. Zuccaro replied that yes up to 30 feet of adjacent streets could be used in calculating the gross acreage.

Vice Chair Savoie asked if this method of using right of way to calculate acreage was in the city code.

Mr. Zuccaro replied that yes it is in the code. He continued that very few properties meet the net acreage required by the zoning districts without the addition of the adjacent right of ways. He stated that this is very common.

Commissioner Blum asked if they supported the PTRC recommendation and if there room to move the pocket park.

Chair Christman replied yes.

Vice Chair Savoie stated that the Commission should discuss the fencing issues. He referred to the minutes of the February 25, 2014 meeting in which Mr. Neal stated that the fence would be an open rail design that was likely to be four feet in height and that the applicant would like the flexibility to pick the design.

Commissioner Blum stated that the PTRC recommended a split rail type of design.

Chair Christman stated that it was understood that the fence would be horizontal in orientation with an open rail design. She asked could it be potentially white instead of natural in color.

Commissioner Blum stated that the expectation was of natural material.

Vice Chair Savoie stated that the side setbacks on lots 5 and 7 are 50 ft. He continued that it could appear to be a solid wall of house along Quincy Ave. He stated that due to the large size of the building envelopes that lots 5 and 7 could have 75 ft. side setbacks.

Chair Christman stated that it was more of an issue of the orientation of the homes when considering which was the front and side setbacks. She asked does the commission have the authority to designate the orientation of the house.

Mr. Zuccaro replied that according to city code 16-5-30 sub-paragraph (h) the Planning and Zoning Commission shall select the side which is to be the front yard in a new subdivision for corner lots.

Chair Christman asked does lot 7 have a 75 ft. setback from Quincy Ave.

Commissioner Blum replied yes and that lot 2 does as well.

Commissioner Wyman asked would the current change in setbacks of lots 4 and 5 reverse the side setbacks from 50 to 75 ft.

Chair Christman replied yes.

Vice Chair Savoie asked if there was anything else in the code regarding the building envelope.

Mr. Zuccaro replied no.

Vice Chair Savoie stated that the 50 ft. setback on lot 7 would impact the neighbors. He asked if there was any authority to move the setbacks.

Mr. Zuccaro replied no.

Commissioner Wyman asked if there were limits on the floor area ratio.

Vice Chair Savoie replied yes but the limits are very high.

Chair Christman asked if they could restrict the height of landscaping along any boundary.

Mr. Zuccaro replied that the Commission has authority where the open space is but no authority regarding landscaping. He continued that the landscaping restrictions, however, may have some significance on where the open space dedication takes place.

Vice Chair Savoie stated that the driveways on Quincy Ave are as not as much of a concern with the fencing concessions that were made.

Chair Christman stated that her concern is a 6 foot wall of solid landscaping that would make visibility difficult. She continued that more sporadic landscaping would aid with this as well as assist with the view corridor. She stated that she would like to see deciduous trees in lieu of solid landscaping.

Vice Chair Savoie asked if the issue of the right of way land included in the gross acreage has been satisfied.

Commissioner Wyman stated no.

Chair Christman asked if they could require a fee simple dedication and if that would affect how many lots were in the subdivision.

Mr. Zuccaro stated that it depends on how much is dedicated. He continued that the majority of trails in the city are dedicated via easement and the parks are owned fee simple. He stated that city code states that all land can be dedicated by easement or all fee simple. He continued that in that case they may be under the acreage for seven lots.

Chair Christman asked can they grant a variance for the lot size.

Mr. Zuccaro answered that there are provisions for lot size variances.

Chair Christman stated that it is simpler to have a variance but does the code prohibit the reduction of lot size.

Mr. Zuccaro answered that if the land were dedicated fee simple to the city that would violate the minimum acreage set forth in the code. He continued that the property could not be transferred to the city outside of a subdivision.

Commissioner Blum stated that they could look at lot 7 for the park relocation. He asked how important it is to the city to have the land fee simple versus easement.

Mr. Zuccaro replied that a trail easement gives the city full rights to the property excluding any utility easements. The property would be fully open to the public.

Chair Christman asked Mr. Zuccaro was he aware of any parks in the city that are dedicated as easement.

Mr. Zuccaro stated that the city owns most of the parks fee simple. He indicated on the map an area of open space that is park easement that has been dedicated to the city.

Chair Christman stated that a public park on private property can cause concern. She continued that if it was controlled by an HOA that would be different. She stated that she would like to ask the applicant if the parks should be owned by the city in order to clear up any tax or liability issues.

Mr. Zuccaro stated that the city attorney could confirm liability as a condition of approving the subdivision.

Vice Chair Savoie stated that he thinks that the plat is well done. He continued that he disagrees with Commissioner Wyman as far as the lot acreage. He stated that this is the norm for the city and how lot sizes are calculated. He stated that placing the park in the northeast corner could diminish the value of lot 7. He stated that the applicant could show a design indicating how that open area would be integrated.

Commissioner Wyman asked what the width of the proposed sewer easement is. He continued that the sanitation district wants 30 ft.

Jeff Vogel, representative for the applicant, stated that the width is not on the plat. He continued that he would confirm that measurement.

Keith Neal, representative for the applicant, stated that when working on the plat, very close attention was paid to city codes. He continued that the issues raised by the PTRC were resolved with the current package of planning components and satisfied all the various concerns. He continued that it is easy to lose the big picture of the project when picking apart various minutiae.

Mr. Neal stated that the previous fence design was allowed by the city code. He continued that the applicants are not asking for anything that is not allowable by code. He stated that they did make the fence concession in the previous meeting. He continued that the applicant is requesting some flexibility regarding the design of the fencing. They are considering split rail or white rail along Quincy Ave.

Mr. Neal stated that there are many varieties of fencing along Quincy Ave. He continued that the future homeowners are entitled to privacy and protection from crime, and the applicants are very concerned with protecting this.

Mr. Neal stated that on the topic of view corridors, there are many issues such as changing seasons, types and conditions of trees, etc. He continued that the open rail fence and the landscaping restrictions on the triangular piece of land on Quincy should satisfy any view corridor concerns.

Mr. Neal stated the issues regarding setbacks were studied extensively with land planners with the intention of preserving open space as much as possible in conjunction with the drainage on the property.

Mr. Neal stated that the package presented for approval is sensitive to the many issues discussed. He continued that this is not a zoning case and if too many changes are made the property values could be significantly decreased and would hurt his clients.

Chair Christman asked if the setbacks on lots 4 and 5 could be increased from 50 to 75 ft.

Mr. Neal replied that he would prefer to not see that happen, but the Commission has that ability to make the changes.

Chair Christman stated that the PTRC prefers a natural rail fence. She asked did the applicants have a strong preference to have the option to use a white fence.

Mr. Neal stated that a white fence looks more refined in many cases. He continued that the fence style is not a deal breaker and the applicant likes the look of one continuous fence style along Quincy Ave.

Chair Christman asked is there a preference by the applicant as to the parks being dedicated fee simple or via easement.

Mr. Neal replied that it is indicated on the plat documents as via easement currently. He continued that it is a common technique in real estate planning. He stated that they fully expected the trails would likely be fenced off with an open rail fence.

Vice Chair Savoie asked are all city trails fenced.

Mr. Zuccaro replied that the majority are fenced with a natural split rail fence.

Vice Chair Savoie asked was it more productive to discuss the material of the fence versus the height and the percentage of open space. He continued that he is more concerned with the continuity of the fencing.

Vice Chair Savoie stated that they could make a series of recommendations and then have the applicant come back at a later date to address them or approve the project with conditions attached.

Mr. Zuccaro stated that either way could happen. He continued that the total time allowed for deliberations of the public hearing is 60 days.

Vice Chair Savoie asked if their recommendations would be read into council record.

Mr. Zuccaro replied yes.

Mr. Neal stated that a fence would need to be 5 ft. minimum if horses were being kept.

Vice Chair Savoie asked what percentage the fence would be open.

Mr. Neal replied that it could potentially be 80 to 90 percent open. Possibly constructed of 3 2x8's horizontal at a 5 ft. height.

Commissioner Blum asked if the pocket park can be moved.

Mr. Neal answered that this is a tough issue as the height restrictions along the fence line on Quincy Ave. were based on the PTRC recommendations. He continued that the angle of the park in the northeast corner would not read well.

A private discussion between the Commission and Mr. Zuccaro as well as private discussion between the applicants and their representatives ensued.

Mr. Neal stated that the applicants agree to move the park but would like to soften the angle from 45 degrees to approximately 60 degrees. He continued that they would like to ask for consideration on the setbacks for lot 4. He stated that this lot is located further back than the existing nonconforming house already on the property.

Vice Chair Savoie asked if the applicants would like to come back in two weeks to indicate changes on plat. He continued that he would like to know the size of the building envelopes as they seem very large.

Mr. Neal stated that their building envelopes are actually more restrictive than what is indicated in zoning. He continued that he would prefer that the Commission made a motion this evening.

Commissioner Blum asked if the setbacks lot 4 on Quincy Ave. could be changed to 75 ft. and swap to make the side setbacks 50 ft.

Mr. Vogel stated that lot 4 is adjacent to the existing outparcel as well as drainage. He continued that the topography makes it difficult to site the home. Making the proposed changes would make it very narrow. He continued that this could force the house to face the existing outparcel. He stated that the setback could be moved towards the open space overlook.

Vice Chair Savoie asked if there are any restrictions for fencing or landscaping along the private road.

Mr. Vogel stated that the last sheet in the plat has all the development standards.

Mr. Neal stated that it would work for the applicants to move the setbacks on lot 4. Commissioner Wyman asked would the setback then be moved closer to the private road.

Vice Chair Savoie replied no.

Vice Chair Savoie made a motion to recommend approval of the George W. Calkins Trust Preliminary Plat based on the findings and analysis of the February 25, 2014 staff memorandum with the following conditions:

- 1) That the fence along E. Quincy Avenue shall not exceed five feet (5') in height, shall be split rail or dimensional (white plastic) and shall be comprised of a maximum of 40% material (maintaining a minimum of 60% open along the entire length of the fence);
- 2) That Lot 4 and Lot 5 be designated as having their front yards along Quincy Avenue, that Lot 4 and Lot 5 have a seventy five foot (75') setback from Quincy Avenue, but that the building envelope for Lot 4 be allowed to maintain an equivalent overall area as currently shown on the Plat by moving the building envelope south by a maximum of twenty five feet (25') toward the open space shown on page 2 of the Preliminary Plat;
- 3) That the open space in the southwest portion of the subject property and shown on page 2 of the Preliminary Plat be relocated to the northeast corner of the subject property; that the open space contain an equivalent overall area and substantially maintain a triangular shape, and that the westernmost angle of the triangle of said open space (along Quincy Avenue) be a minimum of thirty degrees (30°) and a maximum of forty five degrees (45°);
- 4) That the Applicant shall include the details of the Quincy Avenue fence design in the Preliminary Plat and include the fence in the subdivision improvement agreement summary letter and updated cost estimate prior to the City Council public hearing on the Preliminary Plat;
- 5) That the Applicant provide an updated cost estimate for the public and private improvements prior to the City Council public hearing on the Preliminary Plat; and
- 6) That the Applicant include the required Xcel Energy dry utility easement on the Final Plat.

The motion was seconded by Commissioner Blum.

The following votes were recorded:

Chair Christman	yes
Vice Chair Savoie	yes
Commissioner Wyman	no
Commissioner Blum	yes

Chair Christman stated that the motion was approved by a vote of 3-1.

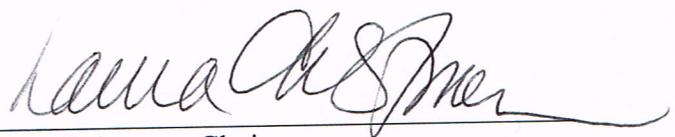
Mr. Zuccaro stated that there will be a public hearing before City Council the first week in May.

Mr. Brad Calkins asked to address the Commission. He thanked the Commission for their concern about the property. He stated that the open space means so much to he and his family and he appreciates the consideration given to the property.

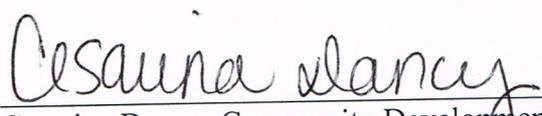
Mr. Zuccaro stated that the next meeting is April 8 and two public hearings are scheduled regarding the BMW tournament and the Arapahoe Tennis Club.

ADJOURNMENT

The meeting was adjourned at 8:09 p.m.



Laura Christman, Chair



Cesarina Dancy, Community Development Clerk