

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, November 10, 2015 at 6:30 p.m.
At the Village Center

CALL TO ORDER

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

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chair Peter Savoie, Commissioner Al Blum, Commissioner David Wyman, Commissioner Peter Niederman, Commissioner Dori Kaplan, Commissioner Mike LaMair, and Commissioner Bill Lucas.

Present at the meeting were the following staff members: Rob Zuccaro, Community Development Director; Emily Kropf, Special Projects Coordinator; and Cesarina Dancy, Community Development Clerk.

APPROVAL OF MINUTES

Commissioner Wyman stated that on page 2, paragraph 5 of the minutes, the word "and" should be removed.

Commissioner Niederman made a motion, which was seconded by Commissioner Blum, to approve the October 13, 2015 minutes with this correction.

The motion passed unanimously.

AGENDA ITEMS

a. *Review of Amendments to Fencing Code*

Mr. Zuccaro stated that staff is presenting for review and recommendation to the City Council a draft ordinance amending the Village's fencing regulations (Exhibit A). He continued to say that the ordinance is intended to address concerns over fencing adjacent to trails and within front yards that may compromise the semi-rural, pastoral, and open character of the Village, disrupt view corridors, create tunnel like effects along trail systems, create potential safety hazards, and lead to the loss of a community atmosphere.

Mr. Zuccaro gave a summary of the review process to date.

Mr. Zuccaro stated that Table 1 in the staff memorandum summarized the proposal found in Exhibit A as compared to the existing fencing code. He continued to say that in the current proposal, all fencing parallel to a public trail, park or open space would need to be a minimum of 75% open and could not exceed 6 feet in height. He stated that typical fences that would be allowed include 3 and 4-foot split rail or open rail fences and 4, 5 or 6-foot ornamental iron fences. Fences in front yards beyond the front façade line of the house in the R-1, R-2, R-3, and R-3A districts would be limited to 4 feet in height and a minimum of 50% open. Fences in front yards beyond the front façade line of the house in the R-4 and R-5 districts would be prohibited.

Commissioner Kaplan asked if the openness requirement also entailed a style or design requirement.

Mr. Zuccaro replied that the proposed code does not place any restrictions on design or material, only openness.

Commissioner Niederman asked how many properties that would be affected by this change currently do not have a fence.

Mr. Zuccaro replied that there is not an exact count of how many properties do not currently have fences.

Commissioner Wyman stated that along Colorado Boulevard all the properties adjacent to the trail were fenced.

Commissioner Niederman asked if an existing fence needed to be repaired or replaced could the same style of fence be kept.

Mr. Zuccaro replied that there is a provision in the proposed code that 25% of a fence can be repaired or maintained every two years but any repair or replacement in excess of this would require the entire fence to be brought into conformity if the new code is adopted.

Commissioner Wyman asked if a tree limb falling or other unforeseen damage would require the fence to be brought into conformity.

Mr. Zuccaro replied that if over 25% of the fence needed to be repaired then the entire fence would have to be brought into conformance. He continued to say that a natural disaster did not exempt a property owner from this provision.

Mr. Zuccaro stated that there is a higher standard for nonconforming fences proposed in relation to other nonconforming structures and this is purposeful in order to bring the fences into compliance faster.

Chair Savoie asked why the issue of the rear and side yards being adjacent was not addressed in the proposed amendments.

Mr. Zuccaro replied that the consensus from the study session was that privacy in the backyard was more important than restricting the height for a neighbor's side yard.

Chair Savoie asked if existing fences could be maintained if they did not conform.

Mr. Zuccaro replied that a nonconforming fence could in theory be maintained forever but the code amendments would apply to all new fences being constructed and to those that have crossed the threshold of maintenance and would need to be replaced in their entirety.

Commissioner Niederman suggested that the City could allocate some funds to encourage property owners along trails to bring their fences in compliance.

Commissioner Blum replied that it would be hard to convince City Council to allocate funds for this purpose.

Commissioner Lucas stated that the fence along the property behind Kent Denver started the conversation for the PTRC regarding fencing along trails. He stated that the PTRC views this particular fence as a scar on the landscape.

Commissioner LaMair stated that the trail will stay icy all winter as the fence is totally solid.

Commissioner Lucas stated that the PTRC is looking at all fences in context and that repairs are not the primary issue.

Commissioner LaMair asked which requirement would be enforced if it is a front yard fence which also borders an on-street trail, as they have separate standards in the proposed code amendment.

Mr. Zuccaro replied that zoning standards dictate that the more restrictive requirement would apply. He stated that this could be clarified in the drafting of the ordinance. He continued to say that the Commission could also make a recommendation regarding this.

Chair Savoie stated that there is a privacy issue along Quincy Avenue and some of the other major streets.

Mr. Zuccaro stated that exemptions for certain areas have been discussed in previous meetings. He continued to say that the Commission placed strict fencing guidelines on the Calkins subdivision which also is on Quincy Avenue.

Chair Savoie stated that an on-street trail can also be on a busy street and that 6ft in height with 75% openness might not be appropriate in these areas to buffer sound and provide privacy.

Commissioner Lucas stated that a large property in the R-1 zone district does not need a big fence as these houses are set back further than houses in other zone districts and these long fences contributes to the walled off effect that is concerning to many in the City.

Commissioner LaMair stated that property owners can add landscaping or berms for more privacy.

Mr. Zuccaro replied that solid 6 foot tall berms are not allowed, but a berm with undulations up to 6 feet in height is allowed.

Commissioner LaMair stated that the trails should be clearly defined.

Mr. Zuccaro replied that staff would detail this more in the draft amendment.

Commissioner Kaplan asked if all existing fences would be grandfathered in.

Mr. Zuccaro replied that they would be if they were constructed with a valid permit or if they existed for at least 20 years.

Chair Savoie asked for input from the Commission on height requirements on major streets.

Commissioner Wyman stated that 6 foot solid fences should be allowed along major streets.

Commissioner Lucas stated that the size of the lots in the R-1 zone district have very large setbacks which do not necessitate large fences and walls. He stated that properties being walled in detract from the character of the Village.

Commissioner Niederman stated that taking the privacy away will have a negative effect on property values.

Commissioner Wyman asked if currently a property with frontage on an on-street trail would have the fence setback distance measured from the trail or the street.

Mr. Zuccaro replied that the fence setback would be measured from the street edge not the trail edge.

Chair Savoie asked if there are currently 6 foot solid fences in front yards.

Mr. Zuccaro replied that the current code does allow 6 foot solid fences around the entire perimeter of the property. He stated that there is a menu of options to choose from when constructing a six foot solid fence adjacent to a street, which include landscaping requirements and setting the fence back from the property line.

Chair Savoie stated that he would like to recommend that 6 foot solid fences be allowed along the busy streets identified as: Quincy Avenue, Colorado Boulevard, Clarkson Street and Holly Street.

Commissioner Blum stated that open fences should still be required along Holly Street, as it is not as heavily traveled.

Commissioner Niederman stated that the continued growth in the Tech Center could turn the Village into a pass through for those looking to bypass traffic.

Chair Savoie stated that there are also properties which face Happy Canyon Drive and that is also considered a major street.

Commissioner Wyman stated that solid fences should be allowed along all the major streets. He continued to say that the Village is changing and is not the rural equestrian community that it once was.

Commissioner Blum stated that there will always be a conflict between privacy and openness in the Village.

Commissioner Lucas stated that when people buy property along the trails they are essentially buying into everything that comes along with that type of property.

Commissioner Wyman stated that owners are buying into what exists at that time and that it is unrealistic to maintain that forever. He continued to say that changes need to be made in order to protect privacy.

Commissioner Blum made a motion, which was seconded by Commissioner Niederman, to recommend approval of amendments to the Village's fencing code as proposed in Exhibit A with the amendment to allow fences along Colorado Boulevard, Quincy Avenue, Clarkson Street and Happy Canyon Drive to have fences which are solid and 6 feet in height subject to the landscaping and setback requirements proposed.

The motion passed with a vote of 4 in favor and 3 opposed.

b. Review of Overall Permitted Building Height

Ms. Kropf stated that staff is presenting for consideration a review of the current permitted building height. She stated that the City recently completed an evaluation of the residential development standards that were adopted in 2011, which consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted building height from 30 feet to 35 feet in the R-1, R-2 and R-3 zone districts. She continued to say that the City has received some complaints regarding the height of construction over the past few years.

Ms. Kropf stated that a review of recent construction shows that the majority of homes in R-1, R-2 and R-3 have taken advantage of the increase in height but only a few properties have actually maximized the 35-foot allowance.

Ms. Kropf stated that City Council has asked that the Commission make a recommendation regarding the current building height. She stated that the Commission can recommend one of the following options: the height limit should remain at 35 feet; the height limit should revert back to the original 30 feet; the height limit should revert back to the original 30 feet, but the City should adopt a special review process that allows a height of up to 35 feet based on set review criteria; or the City should review another options that has not been considered at this time.

Ms. Kropf stated that staff has provided a few sample property photos, an example of a special review process and feedback from architects that were asked to identify properties that benefited from the increase in height in the Commission's packets.

Commissioner LaMair asked if Ms. Kropf could summarize the responses that were received.

Ms. Kropf replied that there was not much detail in the responses, but there were two architects who were in support of the increase in height.

Chair Savoie stated that he was on the RDSC and that he feels that the 35 foot height limit does create a looming effect. He stated that in the R-1 zone district the larger setbacks allow for the height difference to be not as obvious, but in the smaller zone districts a five foot difference in height is noticeable.

Commissioner Lucas stated that he researched the height limit in other cities and Greenwood Village has a height limit of 28 feet, and Denver and Boulder both have a 30 foot height limit.

Chair Savoie asked Mr. Zuccaro to explain how the City calculates height.

Mr. Zuccaro explained the height calculations that are used by the City. He stated that while some other cities may measure corners, the Village uses the center point of the house based on natural grade.

Commissioner Blum stated that all the homes in the Buell Mansion subdivision were built at a restriction on height of 30 feet with no architectural challenges.

Commissioner Niederman asked when the height limit was changed.

Mr. Zuccaro replied three years ago when the bulk plane was enacted.

Chair Savoie stated that he preferred a 30 foot height limit in all zone districts except for R-1, which would maintain the 35 foot height limit.

Commissioner Kaplan stated that a 30 foot height limit is acceptable in all zone districts.

Chair Savoie made a motion, which was seconded by Commissioner Niederman, to recommend a 30 foot height limit in all zone districts, with the exception of the R-1 zone district which would remain at a height limit of 35 feet.

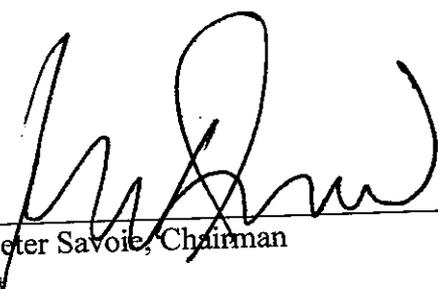
The motion passed with 6 in favor and 1 opposed.

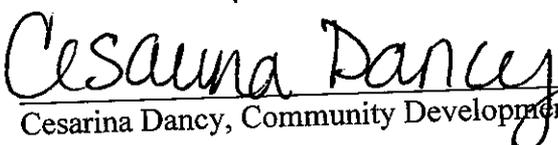
ADJOURNMENT

Chair Savoie made a motion, which was seconded by Commissioner Niederman, to adjourn the meeting.

The motion passed unanimously.

The meeting was adjourned at 8:00 p.m.


Peter Savoie, Chairman


Cesarina Dancy, Community Development Clerk