

Minutes of the
Focus Group Meeting of the City of Cherry Hills Village, Colorado
Held on Wednesday, March 9, 2011, at 2:00 p.m.
At the Village Center

INTRODUCTION

Present at the meeting were the following staff members: Mr. Robert Zuccaro, Community Development Director; Ms. Emily Kropf, Community Development Clerk; and Mr. David Foster, Deputy City Attorney for the City of Cherry Hills Village, Colorado.

Also present were Mr. Abe Barge from Winter and Company and Ms. Mary Phillips from Winter and Company.

Twenty-two homebuilders and architects were invited to the meeting. Three homebuilders and one architect were present.

AGENDA ITEMS

Proposed Changes to City's Zoning Standards

The focus group started at 2:05 p.m. with Mr. Zuccaro welcoming the homebuilders and discussing the purpose of the meeting. He said that the City was seeking feedback from homebuilders regarding proposed changes to the City's zoning standards. Mr. Zuccaro introduced Mr. Barge and Ms. Phillips from Winter and Company, the consultant firm hired by the City, and Mr. Foster, the Deputy City Attorney.

Mr. Zuccaro began by discussing the history of the City's zoning standards. He said that while reviewing the City's records from the past 10 years, he observed a push from the community to limit the size of houses. The City Council reviewed the issue in 2001 but decided not to pursue the proposed resolution at the time. The Council felt it was not a good standard to enforce.

Mr. Zuccaro said that approximately two years ago, the Council appointed the Residential Development Standards Committee (RDSC) to review the City's zoning requirements. The RDSC's recommendation incorporated the use of a bulk plane, FAR and increase in building height. The City Council reviewed the RDSC's recommendation and subsequently hired Winter and Company to study the concept of a bulk plane in greater detail in relation to different zone districts and neighborhoods.

Mr. Zuccaro continued that the average home in the City is 5,000 square feet. New houses are averaging between 8,000 and 10,000 square feet. The RDSC identified some structures as "outliers" in the community and sought to find the right solution to discourage this type of construction.

Mr. Zuccaro said that the City is at a point in which the bulk plane and FAR reports are completed and is in the process of collecting feedback from residents and homebuilders. This feedback will be used to tweak the proposed regulations. The City will have drafts of the ordinances being proposed to Council in the next few months. Winter and Company will assist in the drafting process.

Winter and Company Presentation

Mr. Barge began by discussing several concerns that had been expressed by the community regarding current housing trends. These include: looming structures, solar access, privacy, views, overall mass and scale.

Mr. Barge noted that the objective for the meeting was to explore current recommendations and receive feedback from homebuilders. He presented several posters to the group depicting current conditions. The pictures illustrate nine examples in the community that are broken down by zone district. They also describe the project and establish what new developments would look like with new regulations.

Mr. Barge defined a bulk plane as a standard that lowers height limits near the edges of lots by establishing an inclined plane over which buildings may not protrude. The recommended bulk plane for the City would allow a taller starting height at the front of the lot and a lower starting height at the rear of the lot and an angle of 40 degrees. The adoption of this regulation would require that buildings fit in the area defined by the bulk plane.

Mr. Barge then defined floor area ratio (FAR). This zoning standard relates floor area to lot size. For example, if a 10,000 square foot lot has a 5,000 square foot house located on it, there is a FAR of .5. The size of the lot will determine the maximum size of the house. The design of the home is not affected by FAR, only the size is affected. Mr. Barge provided an example of a house with a FAR of .14, which is average for the neighborhood. Mr. Barge then identified a house in the same neighborhood with a FAR of .23, which is above average. Mr. Barge identified a house with a FAR of .5, which is the largest building that could be built on the lot. The RDSC is recommending a standard FAR of .23. Mr. Barge said that the recommended use of FAR is intended to balance effectiveness, predictability, context sensitivity, flexibility and integration of existing conditions.

Mr. Barge discussed the RDSC's final recommendation which increases the maximum building height allowed. In exchange for using bulk plane and FAR standards, the Committee has recommended that the maximum building height be raised from 30 feet to 35 feet. This standard encourages flexibility and provides compromise. If the City were to adopt these recommendations, the edges of the building would be lower, but the middle of the building could be higher.

Mr. Barge then discussed the impact of such standards in the community. Mr. Barge identified one type of building currently seen in the City as a narrow lot (Context F). In the

illustration, it is relatively constrained. The current building would not fit in the new building envelope determined by the bulk plane. The two story building mass at the front of the structure would actually fit in the envelope but the rear would not. Also, long, tall walls are not encouraged by the bulk plane. Furthermore, the building would exceed the FAR standard. Although these standards would place limitations on development, there are many design choices still available.

Mr. Barge identified a number of additional considerations in order to accommodate existing conditions and encourage flexibility. There might be recommended exceptions for gable roof ends, dormers and chimneys. These structures might extend through the building envelope. Mr. Barge indicated that there would also be a special bulk plane for accessory structures in the R-1 and R-2 districts.

The next issue Mr. Barge discussed was the structures that would be included in the FAR. All above ground structures would be counted in the FAR. Structure accessories would also be counted. The RDSC recommended that re-graded land be addressed by the FAR standard, as well.

Mr. Barge ended the presentation by stating that the next step in the process is a study session with the Planning and Zoning Commission. An evaluation of the potential alternatives will be followed by the drafting of ordinances and a public hearing with Council.

Group Question and Answer

During this portion of the meeting, the homebuilders were able to direct questions and comments to Mr. Zuccaro and Mr. Barge.

The first question discussed where the recommended standards had originated from. Mr. Zuccaro said that information about the size of houses in the City had been collected from the County Assessor and used to determine an appropriate FAR. The bulk plane was more of a visual recommendation that Winter and Company introduced.

The second question addressed how new standards would be applied to existing structures. Mr. Barge responded that this has yet to be determined. He continued that when it comes to non-conforming structures, there is not much that can be done. The recommended standards are meant to prevent the expansion of non-conforming structures. Existing structures will most likely be grandfathered in.

The third question dealt with how new standards would affect design considerations. One homebuilder argued that if the City were to adopt more lenient standards, certain design restrictions could be lessened. Mr. Zuccaro responded that the RDSC examined several examples in the community and identified problems in each district. The numbers might be adjusted, but the purpose of new standards is to reduce the number of problems identified in each district. The RDSC often described these few properties as the "outliers." The intent of the regulations is to deal with the outliers and not impact other development.

One homebuilder commented that he was not opposed to the concept of a bulk plane. He believes that it encourages better architecture. In terms of property rights, however, he feels that if the City were to adopt new standards it would reduce the owner's ability to use his or her land. Another homebuilder added that FAR limitations would reduce the presence of unique homes in the City. He said that limiting lot coverage would affect design.

The fourth question discussed whether the proposed regulations were the result of a small percentage of the City's population. One homebuilder asked why the City would want to restrict the entire community based on a few individuals. Mr. Barge responded that it was more than a few homes that were causing issues. Based on the community's concerns, it seemed that many residents were interested in limiting new construction and keeping houses on a smaller scale in general.

The fifth question was whether some of the City's long, narrow lots were responsible for the proposed changes. Mr. Zuccaro responded that the City has seen problems in other areas, as well. One homebuilder commented that the impact of new construction can be seen commonly throughout the City.

Mr. Zuccaro said that the RDSC had originally sought to eliminate all shading on lots. Concerns from the community indicated that solar access was an issue especially in regards to accessory structures. Mr. Barge continued that upon evaluation it was discovered that there were some issues with the elimination of shading. It was found that flexibility was required in order to address non-conforming structures. The Committee eased up on the degree of the bulk plane as a result. The Committee members wanted to establish an ideal solution in which they could address the problem without restricting design choices. Mr. Barge added that although the Committee wanted to be flexible, a stop gap was needed in order to address the problem.

Several homebuilders commented that flexibility is essential to the building process. One homebuilder said that the City is known for its diversity of design and expressed concern that the results of new standards would detract from the community.

Another homebuilder mentioned the use of Gross Residential Floor Area (GRFA) in Vail, Colorado. He claimed that these standards had been detrimental to the area resulting in conflict amongst members of the community. The homebuilder also commented that basement construction and grading sites can lead to a slippery slope. He added that homebuilders will most likely begin to leave attics empty in order to conserve space. Mr. Barge responded that it would not matter if an attic was left unfinished as it would still be counted in the FAR based on the current recommendations if the height of the attic was above a certain level.

The sixth question was whether the City had considered establishing a separate FAR for primary and accessory structures. Mr. Barge responded that the concept is not uncommon, but it would defeat the rationale of the standard, which is to limit square footage.

The seventh question addressed grading sites. The homebuilder inquired as to whether the historic grade would be measured in order to establish the maximum height. Mr. Barge responded that this is yet to be determined. On the one hand, the issue of re-grading needs to be addressed due to the impact it has on neighbors. On the other hand, homebuilders require flexibility. Mr. Zuccaro said that the center point that has been used in the past can be problematic. There has been some discussion about establishing new height calculations. The City would like to establish a policy that encourages flexibility and fairness, but it cannot eliminate the concept of a natural grade altogether either.

One homebuilder commented that he has seen height calculated through the average of multiple points on a lot. He continued that grading sites seem to promote more expensive construction techniques and drainage problems. Mr. Zuccaro responded that there have been several complaints about the maximum height of buildings. Several residents have questioned the height of structures in the community claiming that they must be higher than the maximum allowance.

The eighth question dealt with the implementation of new standards. Mr. Zuccaro answered that if the ordinance is approved, any permit issued after the date of adoption will be subject to the new standards. He continued that it might be possible to submit plans already in review under the old rules within a specified timeframe. Projects that have been on the shelf for an extended period of time might have to be redesigned in order to conform to the new standards.

Mr. Foster added that the pending ordinance doctrine could be applied if new regulations were adopted. According to the doctrine, the City would no longer be obligated to honor the old rules. Denver recently experienced a moratorium on construction. Applicants were given a window to file for permits for projects that had been shelved. This resulted in a mass filing. While a similar window might encourage new construction, it could also result in more projects similar to those that the community is trying to prohibit.

The ninth question discussed the process of notification. The homebuilders expressed concerns for upcoming projects that might have to be adjusted according to new regulations. Mr. Zuccaro commented that it is important to spread the word in order to prevent any surprises from occurring. Mr. Barge also commented that Winter and Company would be more than willing to assist homebuilders in reviewing plans to see if they would meet new standards.

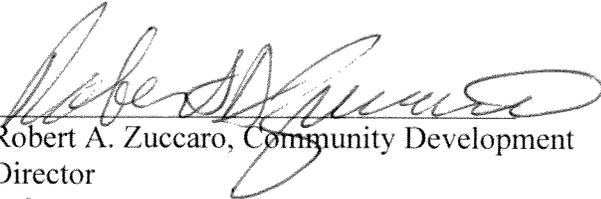
The tenth question addressed the future of the City. The homebuilder said that the City should be careful to adopt new regulations. He continued that five to ten years from now, a future buyer might want to build an accessory structure but would not be able to do so according to the FAR standard. The buyer might reconsider the land purchase as a result.

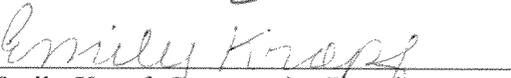
Mr. Barge commented that the City is not alone regarding its dilemma. Many communities are facing similar problems. Traditionally, zoning standards were not as closely monitored, but we are now seeing a movement towards massive structures.

Mr. Zuccaro concluded the meeting by asking the homebuilders to submit individual comments worksheets and additional written comments regarding the proposed changes. He also asked that the homebuilders submit comments on the National Green Building Standard that the City is currently considering. The RDSC recommended the adoption of this standard. Mr. Zuccaro also added that the homebuilders should be aware of the timing of the proposed changes. If anyone is unable to submit plans in the next few months, they should continue to monitor the process closely.

ADJOURNMENT

The meeting adjourned at 3:00 p.m.


Robert A. Zuccaro, Community Development
Director


Emily Kropf, Community Development Clerk