

Special Design Review Committee
Recommendations Report

Submitted to the Civic Association of Hollin Hills Board of Directors
December 2, 2007

Introduction

Responding to a request from association members made at the November 2005 General Membership meeting, the Civic Association of Hollin Hills Board of Directors (Board) created the CAHH Special Design Review Committee (SDRC) through the following resolution:

It is hereby resolved that a Review Committee be established to undertake the following tasks: □ □

1. The Committee shall evaluate the existing DRC Guidelines to determine if the DRC Guidelines should be amended to address with greater specificity the permissible scope of house additions and the complete teardown of a house. □ □
2. The Committee shall work with the CAHH Board to hire legal counsel to provide an opinion concerning: (i) whether pursuant to the existing covenants and/or the DRC Guidelines the community can legally prohibit "teardowns" of houses; (ii) whether the covenants can be changed to prohibit "teardowns". Depending on the cost of legal counsel, approval by the General Membership may be required. □ □
3. The Committee shall review and make recommendations, if necessary, concerning the DRC's procedures. This review shall include, but not be limited to, procedures for communicating information concerning proposed renovations to immediate neighbors and the community as a whole and when recusal or other similar action by a DRC member is appropriate. With respect to communication issues, the Committee should consider the stage/point during the DRC review process when notification to neighbors or the community is appropriate and whether the contemplated scope of the project should determine the type of notice to be provided. □ □
4. The Committee shall seek the input from the whole of the community, preferably by holding at least one open forum meeting where any interested community member could speak.

The Board recruited several association members to serve on the committee, including CAHH Design Review Committee representative Ray Goodrow (later replaced by Matt Robinson), Bob Kinzer, Jim Klein, Cathy Labas, Chris McNamara, Barbara Jeanne Polo and Scott Weidenfeller. The committee held its first meeting on January 24, 2006. Chris McNamara was elected SDRC by the committee at that meeting.

From that initial meeting through the completion of this Recommendations Report, the SDRC collaborated to successfully complete the four tasks. Its work played out in four phases: "Teardowns", Community Survey, Town Hall Forums and Recommendations. This report presents findings related to individual tasks and the committee's recommendations, which are based on significant communitywide input. The report also captures the spirit and best intentions of the majority of Hollin Hills homeowners in preserving the unique design and surroundings that are the hallmarks of our remarkable neighborhood.

Phase I: “Teardowns” (Jan. 2006 – July 2006)

Task 1: The Committee shall evaluate the existing DRC Guidelines to determine if the DRC Guidelines should be amended to address with greater specificity the permissible scope of house additions and the complete teardown of a house. □ □

Task 2: The Committee shall work with the CAHH Board to hire legal counsel to provide an opinion concerning: (i) whether pursuant to the existing covenants and/or the DRC Guidelines the community can legally prohibit "teardowns" of houses; (ii) whether the covenants can be changed to prohibit "teardowns". Depending on the cost of legal counsel, approval by the General Membership may be required. □ □

The SDRC met several times to discuss the existing DRC Guidelines specifically to determine if the guidelines required revision and what could and could not be done about the issue of “teardowns” in Hollin Hills. A variety of thoughtful and constructive ideas and opinions were offered. After several meetings, the committee determined that further discussions about proposed changes to the DRC Guidelines and processes, and prohibiting teardowns in Hollin Hills would be fruitless without a legal opinion from an expert on Virginia homeowner and homeowner association rights.

The SDRC members developed a series of questions (Attachment 1) it felt needed to be answered, presented them to the Board and asked the Board to hire legal counsel to pursue that opinion, as stipulated in Task 2. The Board subsequently condensed the committee’s questions to three and hired the law firm of Rees, Broome & Diaz, P.C. Raymond J. Diaz was assigned by the firm to answer the Board’s questions, which included the SDRC questions and other questions related to the restrictive covenants.

Following are the questions and summary responses for the three SDRC questions. Additional information about the response can be found in the Rees, Broome & Diaz, P.C. letter dated July 28, 2006 to Judy England-Joseph, president of the CAHH at the time (Attachment 2).

1. Whether, under the existing restrictive covenants, the Civic Association of Hollin Hills (the “Association”) can prevent Hollin Hills lot owners from tearing down existing homes?

Summary Response: No. Because of the construction Virginia courts apply to restrictive covenants, the language of the existing Hollin Hills restrictive covenants do not allow the Association to prevent owners from tearing down existing homes.

The response went on to say that “there is a substantial body of case law in Virginia standing for the principal that restrictive covenants are disfavored because they interfere with the free use and transfer of real property...For this reason, restrictive covenants are narrowly construed and any ambiguity in a restrictive covenant will be resolved against its enforceability...Applying these principles to the existing Hollin Hills restrictive

covenants compels the conclusion that the covenants will not permit the Association to prevent lot owners from tearing down existing homes.”

2. *Whether the Hollin Hills restrictive covenants can be amended to prevent Hollin Hills lot owners from tearing down existing homes?*

Summary Response: The covenants can be amended to these effects but the amended covenants would likely not be enforceable.

The response concludes that “...I do not believe that an amended covenant that prohibited the removal of existing buildings, even if adopted by the requisite percentage of owners, would be enforceable.”

3. *Whether, under the existing restrictive covenants, the Association can require the replication of some percentage of the original house or specific design elements if an existing home is replaced?*

Summary Response: To the extent that specific design elements are critical to the harmony of external design of the new residence with existing structures, the Association can require replication of those elements. Care would have to be taken in requiring that some percentage of the existing house be replicated in the replacement house.

Response: Under the existing restrictive covenant, the Design Review Committee has significant, subjective discretion. That is, subject to a duty to act reasonably, the DRC has the authority to determine what is and what is not “...in conformity and harmony of external design with existing structures and as to the location of the building...” This discretion allows the DRC to identify specific design elements that must be incorporated into any new building or any alteration of an existing building in order for that building or alteration to be “in conformity and harmony.”

In doing so, care must be taken to be sure that the specific design elements adopted relate to the external design of the building and that they are necessary for there to be conformity and harmony with existing structures. By this I mean that unless the design elements are present in the external design of existing structures, they cannot be required in new structures. However, so long as they do exist in the external design of existing structures, particularly existing structures in the immediate vicinity of the new structure, the DRC can require them.

The question whether the Association can require replication of some percentage of the original house is somewhat more problematic. This is because the preservation of some percentage of the original house is unrelated to the “harmony of external design” criteria. The restrictive covenant is not intended to preserve existing buildings, no matter how important they may be as examples of Mr. Goodman’s work. Rather, the covenant is intended to protect the compatibility between new buildings or alterations and existing buildings. For the reason and, again, because of the disfavor with which courts view

restrictive covenants, I do not believe that the existing covenant will allow the DRC to require that some percentage of existing houses be preserved.

The legal responses to these three questions effectively removed the “teardown” issue from further consideration by the SDRC. The committee, therefore, concluded work on the teardown component of Task 1 and all of Task 2.

Phase II: Community Survey (August 2006 – April 2007)

Task 1: The Committee shall evaluate the existing DRC Guidelines to determine if the DRC Guidelines should be amended to address with greater specificity the permissible scope of house additions and the complete teardown of a house. □ □

Task 3: The Committee shall review and make recommendations, if necessary, concerning the DRC's procedures. This review shall include, but not be limited to, procedures for communicating information concerning proposed renovations to immediate neighbors and the community as a whole and when recusal or other similar action by a DRC member is appropriate. With respect to communication issues, the Committee should consider the stage/point during the DRC review process when notification to neighbors or the community is appropriate and whether the contemplated scope of the project should determine the type of notice to be provided. □ □

Task 4: The Committee shall seek the input from the whole of the community, preferably by holding at least one open forum meeting where any interested community member could speak.

With a conclusive answer to the issue of what the Association's options are related to "teardowns", and clear understanding about the DRC's ability to add specificity to the DRC Guidelines, the SDRC turned its attention to discussions about the guidelines, neighbor notification, community communication, DRC meetings and specific design elements. These discussions, started in Phase I, served as the basis for the development of a community survey.

Every SDRC member provided specific questions and input on several revisions to the survey document prior to completion. Additionally, the committee invited representatives from the House in the Woods group to share their thoughts about topics to be addressed in the survey. Comments from the DRC and Board members also were factored in. A final step was to share the draft document with a two neighborhood experts on survey design, Lucy Wilson and Pam Koger-Jesup. They helped streamline the questions, improve formatting and readability and, most importantly, neutralize biased or leading questions. In short, they transformed a very solid amateur questionnaire into a professional survey tool.

The final draft included both closed and open-ended questions about five topic areas:

1. General awareness the DRC and the DRC design review process
2. The neighbor notification process
3. The design review process
4. The design review guidelines
5. Design Review Committee meetings

The SDRC presented the final survey draft to the Board, which approved it without revision. That document was posted into an online survey tool, Survey Monkey.

A numbered hard copy of the survey was sent to 467 houses – every house, not just member houses – in Hollin Hills on December 22, 2006. Recipients were instructed to complete the written survey or the online version and return it to the SDRC by no later than Jan. 31, 2007. To help achieve a maximum response rate, SDRC notified residents of a deadline extension to Feb. 15, 2007. In the end, the SDRC received a total of 212 (46.5 percent of Hollin Hills houses) completed written or online surveys.

Lucy Wilson again provided invaluable service to the SDRC and the community by analyzing the results. With the exception of a few important topics, results from the survey conclusively indicated the community's position. Frequently 60 percent or more of respondents answered the same way.

Not surprising for the neighborhood, verbatim comments demonstrated strong opinions on both sides of the topics addressed in the survey. Key survey findings (more information is available in Attachment 3) include:

General awareness the DRC and the DRC design review process

- A good cross-section of the Hollin Hills community completed the design review survey – about half of participants had lived in the neighborhood for more than 20 years.
- More than half of the respondents either have been notified by a neighbor of a proposed change (54%) or have submitted proposals themselves to the DRC (53%).

The neighbor notification process

- Many think the current neighbor notification practice allows sufficient time and opportunity to make comments to the DRC, but they are open to broader community notification for major additions/renovations. Results also indicated that respondents favor additional notices when there are significant changes to DRC-approved design plans for major additions or renovations.
- Three out of five responding Hollin Hillers (59%) favor using a standard form for neighbor notification, or at least making its use optional.

The design review process

- Well over 90 percent of respondents are clearly aware of the design review process, the role of the DRC, and homeowners' design review responsibilities.
- The vast majority of respondents correctly recognize the types of construction changes that do and do not require DRC approval. However, results showed that awareness about roof and window replacement needs improvement.

The design review guidelines

- The majority of responding Hollin Hills households feel the current design review guidelines are okay for most alterations and do not need to be changed – nearly 80 percent have read the guidelines and most think they communicate clearly.
- There is community support for new design review guidelines to cover selective design issues:
 - Design of complete replacement structures.
 - Additions that significantly change appearance.
 - Maximum ratio of house to property size.
 - Maximum height of house.
 - Addition of another story.
- New guidelines for these areas should be (specific, directional or a combination):
 - Design of complete replacement structures (combination).
 - Additions that significantly change appearance (directional or combination).
 - Maximum ratio of house to property size (specific).
 - Maximum height of house (specific).
 - Addition of another story (directional or combination).
- 69 percent of respondents selected “Goodman external design features should be used as a reference base, but should permit minor variations for reasons of convenience and individual taste” or “Combinations of Goodman and contemporary or modern design features should be allowed consistent with harmony and conformity standards” in creating new guidelines.

Design Review Committee meetings

- Two out of three respondents (65%) think DRC meeting agendas should be available to all Hollin Hills residents about a week (64%) ahead of meeting dates.
- Most (57%) do not desire additional reports on DRC meetings other than what is currently published in the *Bulletin*.
- If there were such reports, they should be available about a week after meetings and on the Web site or via community email.
- Improving communications inexpensively—between and among neighbors, the DRC, and homeowners planning design changes—was strongly supported by respondents.
- Most respondents believe any Hollin Hiller should be allowed to attend formal DRC meetings to voice opinions about plans being discussed (58%), as long as homeowners can also have private (informal) meetings for fact-finding discussions with the DRC

(87%) to have design proposals reviewed if those discussions are reported on publicly by the DRC (62%).

- Respondents do not believe in preventing either CAHH Board members (77%) or DRC members from submitting plans for design review (70%).

Areas for further discussion

To determine what questions required further community input, the SDRC used a question response rate of less than 51 percent for questions answered by all respondents or a response rate that was less than double the next response rate (i.e., 46.70 percent Yes, 25 percent No, 21.23 percent No Opinion, 7.08 percent skipped the question) in questions where not all respondents answered the question. This process pinpointed the following topics for additional community discussion:

- Guidance for resolving issues arising in neighbor notification process.
- Guideline areas needing more specificity
 - Exterior paint colors.
 - Overall size of house.
 - Orientation with regard to neighbor privacy.
- Areas needing new guidelines
 - Design of a complete replacement.
 - Additions that significantly change appearance.
 - Maximum ratio of house size to property area.
 - Maximum height of house.
 - Addition of another story.
- Relative importance of flexibility and communication in posting DRC agendas.
- The role of residents attending DRC meetings.
- The neighbor notification process.
- DRC follow-up site visits during construction.
- Potential need for part time assistance for DRC.

Each of these topics was discussed, often at length, at four Phase III Town Hall forums held during April 2007 through June 2007.

Phase III: Community Town Hall Forums (April 2007 – June 2007)

The SDRC conducted four Community Town Hall forums to generate further discussion and feedback on survey questions 11, 19, 22 and 20. Held at the Hollin Meadows Elementary School, each forum attracted between 20 and 40 attendees. That feedback, which reflected the full range of community views on the topics, was factored into the final recommendations detailed in the Recommendations section. Key feedback points from each Town Hall Forum are detailed below:

Town Hall Forum One, April 18, 2007

- The DRC should not have to resolve every major or minor addition/renovation issue, only issues that are within the scope of the DRC Guidelines.
- Guidelines on exterior paint colors should be left as currently written. The DRC should move quickly to enforce harmony and conformity standards if homeowners use colors inconsistent with the rest of the community.
- The DRC Guidelines need to include language that better specifies final size and orientation of houses after additions.
- No “one size fits all” formula to determine ratio of house to property is practical; the DRC must consider current house size, lot topography, orientation, etc. for each addition.
- More sensitivity to neighbor sightlines and privacy should be built into final DRC approvals.
- The DRC needs to use multiple design review processes, one for each “category” of project. Each process should clearly spell out exactly what the DRC needs ahead of time before it can even begin reviewing a project.
- Those “tiered” processes should be widely communicated – CAHH Website, the *Bulletin*, the Hollin Hills Directory, etc.

Town Hall Forum Two, April 25, 2007

- The DRC should continue its practice of allowing any member of the community to attend DRC meetings as observers only.
- The DRC should find a way to provide more information to the community during the conceptual approval process while respecting the privacy of the neighbor asking for the review.
- For major additions, the neighbor notification process should be conducted in two stages – first during the conceptual phase (prior to submission for review), second after DRC

approval of significant alterations/additions. Proof of notification must be completed for both and prior to formal approval.

- Both of those notifications should provide more information (to be specified by the DRC) than currently is provided.
- The DRC should factor in an opportunity for “quiet input” from the entire community into the design review process. The input should only serve as additional feedback that the DRC can consider when making approval decisions. “Half a notch more than what happens now.”

Town Hall Forum Three, June 4, 2007

- Additional guidelines should be added or existing DRC Guidelines should be amended to factor in the “streetscape” surrounding the house affected by any major proposed addition – “contextual harmony and conformity.” Topics to be addressed should include:
 - Siting and orientation of the addition – the original siting should be the starting place.
 - Context – not just harmony and conformity with the existing houses, but also with the way the street has evolved (existing trees, sight lines at both day and night, etc.).
 - Avoiding window placements that create privacy issues with adjacent houses (i.e., an addition window that looks directly down into bedroom windows of a neighbor’s house).
 - Massing/volume.
- Part of the DRC design review application should include a statement by the homeowner that describes how his or her plan would fit into the contextual harmony and conformity of the street and the surrounding homes.
- Preserving as much of the original house as possible should be an objective of any new design. Related comments were that the original house is a good starting point for designing the replacement of an entire house and that what was there should determine what can be put back.
- The existing Hollin Hills window module rhythm should be maintained in any design.
- A plat should be part of the submission package to the DRC. Neighboring plats would be helpful as well.
- There was no agreement on what percentage of a house would constitute a full replacement or major addition. However, eliminating more than 50 percent of a house and 30 percent of interior walls were offered as possibilities.

- Feedback on the maximum height and square footage of a house was left unresolved. However, a 4,000-square foot maximum (about the size of the largest house currently in Hollin Hills) was suggested.
- The DRC should create a series of design review categories and create a pre-planning checklist for each category that the homeowner must complete prior to submission – “design review for dummies.” The more complicated the project, the more information would be required.
- Major changes should trigger additional review relative to what is currently done. Such changes would include adding another story, significant roof line changes, significant changes to the existing house appearance, adding total additions of more than 30 percent of the original house area, and replacement of an entire house.

Town Hall Forum Four, June 14, 2007

- Turning the DRC process into a public hearing, such as those held in Old Town Alexandria, is not desired by the community.
- Neighborhood notification of DRC discussions about specific projects should happen sooner (guidelines now call for three days prior to the first meeting). The DRC meeting agendas should be made available sooner than currently happens. Advance notice could be done by requiring the homeowner in question to post a sign in his or her front yard with information about the date of their DRC review.
- The homeowner should have to prove to the DRC that they have discussed their preliminary plans with their neighbors prior to the initiation of conceptual review and final DRC approval.
- Plans should be available for immediate neighbors to see prior to formal DRC review.
- Near neighbors (those required to be notified by the homeowner) should be allowed to speak at any appropriate scheduled DRC meeting.
- The DRC should specify that all chimneys should be built from brick.

Phase IV: SDRC Recommendations

Based on all of the community input received through the community survey, the four community Town Hall Forums, neighbor-to-neighbor dialogue and comments received through Internet channels, the SDRC respectfully submits the following recommendations for consideration by the Civic Association of Hollin Hills Board of Directors. There are many specific recommendations that can be implemented without much effort. We encourage the DRC to implement these as quickly as possible.

The remaining recommendations will require further work to fully realize. To that end, the SDRC encourages the Board to immediately create a new subcommittee made up of interested association members to work with the DRC.

The design review process

- The DRC should first and foremost fully enforce the existing guidelines as written. For the most part, community feedback indicated that the current design guidelines and the design review process are pretty clear and work pretty well. However, during the community feedback phase, the SDRC found time and again that the DRC's flexibility aimed at 1) accommodating homeowners' schedules and 2) increasing compliance with the design review process often created an atmosphere that fed community concerns. The need for a more structured design review process is both desired by the community and necessitated by real estate market pressures in 2007.

Adding more structure will necessarily lengthen the design review and neighbor notification processes, which will not sit well with everyone in the community. It also will make it harder to maintain current levels of community compliance with both processes. The CAHH board likely will have to move quickly and strongly enforce the DRC guidelines as a result.

- The DRC and the new subcommittee should develop and document a set of guiding principles that more explicitly detail how the DRC will complete its design review mission. For example, one principle could be the DRC will work to prevent unintentional privacy issues for neighbors in adjacent houses. Other topics should include but not be limited to neighbor sight lines, maintaining harmony and conformity with the streetscape, design review process transparency, neighbor communication and others as appropriate. These principles will help provide continuity of purpose for current and future DRC members.
- The DRC and the new subcommittee should develop and implement a system that moves away from a one-size-fits-all approach to design review to one that is specifically appropriate for the size and scope of the proposed addition/alteration. For example, the process to replace an existing roof in-kind should be less complicated than adding a story to a house. The number of categories to be created under such a system should be discussed further, as should the documentation, neighbor notification and presentation requirements for each category. Regardless of the resulting number, the DRC Guidelines

should specify a standard requirements package homeowners would have to follow to complete the design review process for each category.

Once set up, the DRC should proactively communicate the new system to all homeowners on a regular schedule. Category requirement packages should be readily available on the Website and through other outlets.

- The DRC and the new subcommittee should further discuss and develop a process that would include post-approval site visits during construction to ensure that the approved addition/alteration is what is being constructed.
- The DRC and the new subcommittee should further discuss and develop a process that more fully considers “quiet input” from the community in the design review process.
- The DRC and the new subcommittee should further discuss and develop a process that allows for additional information about projects under consideration during the “conceptual” discussions phase of design review.
- The Board should further discuss hiring a part-time position to assist DRC volunteer members in conducting DRC business.

General awareness of the DRC and the DRC design review process

- A more structured approach also will require continuing, proactive community communications regarding the DRC, its purpose, the design review guidelines and process and neighbor notification. The DRC should create and follow a formal communications plan that takes full advantage of all available Hollin Hills communications channels (the *Bulletin*, the greeters system, the Website and the new email service).
- DRC communications should continue to raise awareness about additions/alterations requiring approval. More emphasis should be put on building understanding about window and roof replacement requirements.
- The DRC should consider a creating a system for educating builders, architects and real estate agents working in the neighborhood about the DRC Guidelines and process, so that they, in turn, can educate their clients about the process and encourage them to build design review into their project time lines.

The neighbor notification process

As noted above, the DRC needs to add more structure to the neighbor notification process. Key elements needed include:

- A standardized form that all homeowners must complete for use in notifying neighbors of a proposed addition/alteration

- Further discussion about including a statement about how the proposed addition/alteration fits into the “streetscape” and which neighbors will be affected by the alteration/addition.
- A checklist of documents/visuals that must be shared during neighbor notification (i.e., a set of photographs taken from neighbor vantage points of the alteration/addition).
- A standard process that generates proof of neighbor notification of major additions/alterations at least one week prior to the proposed addition/alteration formal submission to the DRC.
- A standardized schedule that allows for more time than currently provided for neighbors to respond to a DRC pending approval of a major addition/alteration.
- A standardized process that generates proof of neighbor notification of all additions/alterations after DRC approval pending neighbor notification of a proposed addition/alteration.
- A triggering mechanism that re-starts a neighbor notification process when a DRC-approved addition/alteration changes significantly.
- Further discussion about the best way to provide more specific, timely information about major additions/alterations to the community than is currently done.

The design review guidelines

- Working with the new subcommittee, the DRC needs to amend the appropriate existing design review guidelines to add specific limits to 1) the maximum size of any Hollin Hills house and 2) specific language on the orientation of any addition/alteration related to neighbor privacy/sight lines.
- Based on community feedback provided in this report, the DRC and the new subcommittee needs to create new design review guidelines related to:
 - The design of the complete replacement of an existing house (a combination of specific and directional guidelines).
 - Additions that significantly change the appearance on an existing house (directional or combination of specific and directional guidelines).
 - The maximum ratio of house to property (specific guidelines).
 - The maximum height of a house with additions (specific guidelines).
 - The addition of another story (directional or combination of specific and directional guidelines).

Resulting guidelines should direct the use of combinations of Goodman external design features and contemporary or modern design features consistent with harmony and conformity standards.

- The DRC and the new subcommittee should further discuss how best to factor the “streetscape” into the design review guidelines. A starting suggestion for this discussion is to limit the height of any structure to the setback to the adjoining property – i.e., 15 feet high for a 15-foot setback.

Design Review Committee meetings

- The DRC should continue to hold formal meetings open to the entire community to attend as observers only. Where appropriate, near neighbors should be allowed to attend as participants.
- The DRC should continue its policy of allowing homeowners to discuss their proposed addition/alteration in private session, provided the outcomes of those private meetings are part of the public reporting process. However, approvals pending neighbor notification and formal approvals must be given during open meetings.
- DRC meeting agendas should be made available to all Hollin Hills residents at least a week prior to each scheduled DRC meeting.
- DRC should continue to publish reports of DRC meeting discussions and decisions in the *Bulletin* and post the same reports on the Website within one week of the completion of the DRC meeting. The DRC should discuss adding links to additional materials, drawings, etc. related to specific projects in the Website reports.

Acknowledgments

The Chair of the SDRC would like to thank the following individuals who participated in all the activities leading to this report. They graciously committed significant amounts of personal time to ensure that the committee could successfully complete its task. They are:

Mike Damitz
Judy England-Joseph
Robert Fina
King Gillespie
Ray Goodrow
J. G. Harrington
Bob Kinzer
Jim Klein
Pam Koger-Jesup
Cathy Labas

Gus Matson
Jonathan McNamara
Barbara Jeanne Polo
Matt Robinson
Dick Seltzer
Kathy Seltzer
Barbara Ward
Scott Weidenfeller
Lucy Wilson

Additionally, the chair would like to recognize all of the Hollin Hills neighbors that took the time to fill out and return the community survey and attend the Town Hall Forums. Their opinions and ideas were instrumental in developing the final recommendations included in this report.