

ORDINANCE NO. 3

SERIES 2001

January 16, 2001: introduced as Council Bill No. 02 Series of 2001 by Ned Giles, seconded by Doug Tisdale, and considered by the title only on first reading. Passed unanimously.

February 6, 2001: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 3, Series 2001.

AN ORDINANCE FOR THE CITY OF CHERRY HILLS VILLAGE ADOPTING A NEW CHAPTER 6 OF TITLE 7 OF THE CHERRY HILLS VILLAGE SUBDIVISION REGULATIONS CONCERNING AN ADMINISTRATIVE PROCESS FOR THE APPROVAL OF LOT CONSOLIDATIONS AND MINOR LOT ADJUSTMENTS.

WHEREAS, the City of Cherry Hills Village is authorized to regulate the subdivision, planning, and development of property within the City; and

WHEREAS, the City periodically receives requests from landowners to consolidate two or more previously subdivided or legally established lots into one larger lot in order to conform to the current minimum lot sizes for the zone district in which the lots are located; and

WHEREAS, the City periodically receives requests from landowners to adjust legally established lots and lot lines in order to bring the lots into conformance with applicable zoning and subdivision regulations; and

WHEREAS, the consolidation of lots is intended to reduce allowable densities within the City, decrease the degree to which lots fail to conform to the City's minimum lot sizes, and to further the City's planning goals and policies; and

WHEREAS, the adjustment of lots and lot lines is intended, in part, to reduce the number of nonconforming lots and structures within the City and will further the City's planning goals and policies; and

WHEREAS, the consolidation of lots within the City is intended to advance, support, and protect the policies, goals, objectives, and concepts established by the City's Master Plan; and

WHEREAS, Colorado appellate courts recognize that one purpose of zoning and land use regulation is to eliminate nonconforming lots as quickly as possible and such courts have upheld regulatory efforts to reduce and eliminate nonconforming lots and uses; and

WHEREAS, establishing an administrative process to accept and approve applications to consolidate lots or to adjust lots will encourage and facilitate consolidation and directly advance the City's planning goals and policies.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Title 7 of the City Code for the City of Cherry Hills Village is hereby amended by the addition of a new Chapter 6 entitled "Lot Consolidation" to read in full as follows:

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**CHAPTER 6
ADMINISTRATIVE PROCEDURES**

SECTION:

- 7-6-1: Purpose
- 7-6-2: Definitions
- 7-6-3: Contents of Administrative Review Application and Plat
- 7-6-4: Administrative Review Procedures
- 7-6-5: Standards For Approval
- 7-6-6: City's Decision and Appeal
- 7-6-7: Conditions of Approval

7-6-1: PURPOSE: The purpose of this Chapter is to establish administrative review procedures to facilitate the efficient processing of applications for simple adjustment of lots and lot lines that will bring property into greater conformance with the requirements of the City Code for the City of Cherry Hills Village. The following applications shall be subject to administrative processing in accordance with this Chapter:

- A. Lot Consolidation.
- B. Minor Lot Adjustment.

7-6-2: DEFINITIONS:

A. "Lot Consolidation" is any proposal and accompanying application that is determined by the City to meet all of the following criteria:

1. The proposal consolidates property owned by the applicant only; and
2. The proposal consolidates or combines two or more contiguous lots into a fewer number of lots by the elimination of one or more lot lines; and
3. The proposal does not relocate previously established lot lines; and
4. The proposal does not consolidate or combine property into a lot that would be divided by a public street or road; and
5. The proposal, if approved, does not create, result in, or leave a contiguous lot or parcel of land that would violate or fail to conform to any applicable zoning or other standard including, but not limited to, minimum lot area, building height, setback(s), access standards, or parking standards.

B. "Minor Lot Adjustment" is any proposal and application that is determined by the City to meet all of the following criteria:

1. The proposal adjusts, reconfigures, or otherwise relocates a lot line dividing properties owned by the applicant(s) only; and
2. The proposal does not alter or affect any public street, road, trail, or other publicly-owned property or publicly-owned property interest; and
3. The proposal, if approved, will not create, result in, or leave a lot or parcel of land that would violate or fail to conform to any applicable zoning or other standard including, but not limited to, minimum lot area, building height, setback(s), access standards, or parking standards.



7-6-3: CONTENTS OF ADMINISTRATIVE REVIEW APPLICATION AND PLAT:

All applications subject to administrative processing in accordance with this Chapter shall meet all the submittal, material, and information requirements of this Section. The applicant shall submit to the City one original and five (5) copies of all documents. The City may request additional copies of documents larger than 8½ by 11 inches where necessary to provide sufficient documentation for unanticipated referrals. All submittals, materials, and information required by this Chapter for the processing of a lot consolidation or minor lot adjustment shall be prepared at the applicant's cost and expense. The application and plat shall include:

- A. An application in a form approved by the City, which may be in the form of a letter signed by the owner(s) requesting approval of the application and plat pursuant to Chapter 6 of Title 7 of the City Code for the City of Cherry Hills Village; and
- B. Payment of an application fee for administrative review and processing of one hundred fifty dollars (\$150.00). In addition, applicants shall deposit with the City one thousand dollars (\$1,000.00) to be applied toward the applicant's payment of the planning and engineering review services, attorney review fees, plat recordation fees, and other costs and expenses incurred by the City and made necessary as a result of the application. The deposit shall be administered in accordance with the provisions of Section 7-3-2(B); and
- C. A current commitment for title insurance showing the ownership to the property described in the application together with liens, encumbrances, and restrictions thereon, if any, prepared by a Colorado title insurance company; and
- D. A survey plat prepared by a registered Colorado land surveyor in a sheet size of 24" x 36" with the original on mylar illustrating or including the following information:
1. The lots proposed for consolidation or adjustment with clearly identified surveyed boundaries of the new lot(s) and an identifying block and lot number sufficient to identify the new lot(s). Permanent boundary monuments and benchmarks shall be set in the field in accordance with applicable law before the plat is recorded.
 2. A complete and sufficient legal description of the proposed new lot(s).
 3. The title of the plat shall prominently identify the name of the recorded subdivision in which the lots are located together with the phrase "Lot Consolidation" or "Minor Lot Adjustment", as applicable.
 4. Identification of all easements, including but not limited to easements for water, sewer, electric, telephone, cable, trail, recreation, access, and drainage, encumbering the property described on the plat or necessary to provide services to the lot(s) affected by the application.
 5. A plat note stating:
 - (a) For a Lot Consolidation:

"This Lot Consolidation is for the purpose of combining former lots [insert legal descriptions] of the [name of recorded subdivision(s)] into [insert number of new lot(s) to be created] lots to be known as [identify new lot(s) and block designation(s)]. Other than this consolidation and the creation



of new easements, if any, identified on this plat, no other amendment or modification of the final plat for the [identify original recorded plat title] is intended by this Lot Consolidation."

(b) For a Minor Lot Adjustment:

"This Minor Lot Adjustment is for the purpose of adjusting, reconfiguring, or otherwise relocating a lot line dividing Lots [insert lot and block designations] of the [name of recorded subdivision]. Other than the lot line adjustment identified on this plat, and the creation of new easements, if any, as identified on this plat, no other amendment or modification of the final plat for the [identify original recorded plat title] is intended by this Minor Lot Adjustment."

6. A surveyor's certificate identified in Section 7-4-5(B).

7. A certificate of ownership and dedication stating:

"Know all men by this presents, that the undersigned hereby certify or certifies that he/she/they are all of the Owner(s) of the lands described in this plat in the City of Cherry Hills Village, Arapahoe County, Colorado, and hereby dedicate(s) to the City of Cherry Hills Village, Colorado, the utility and other easements shown hereon, if any."

Executed this _____ day of _____, _____.

Owner(s): _____

State of _____) ss.

County of _____)

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

8. A certificate of City approval stating:

APPROVED by the City of Cherry Hills Village and approved for recordation with the Arapahoe County Clerk and Recorder's Office pursuant to Title 7, Chapter 6 of the City Code for the City of Cherry Hills Village this _____ day of _____, _____.

Signature: _____

Title: _____

9. A certificate for the Arapahoe County Clerk and Recorder's acceptance as identified in Section 7-4-5(H).

10. A certificate of consent to and approval of the lot consolidation or minor lot adjustment by those mortgagee(s) and lienholder(s) deemed necessary by the City in a form stating:

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The undersigned mortgagee(s) and/or lienholder(s) consent and approve of the [insert lot consolidation or minor lot adjustment, as applicable] described on this plat:

Executed this _____ day of _____, _____.
Mortgagee(s)/Lienholder(s):

[include a notary block for each mortgagee and lienholder]

State of _____) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

- E. Additional information deemed necessary by the City to evaluate the proposed application or plat including, but not limited to, written releases from utility service providers of unused and unnecessary utility easements encumbering the lots within the platted area.

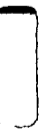
7-6-4: ADMINISTRATIVE REVIEW PROCEDURES:

All applications subject to this Chapter shall be administratively reviewed by the City without notice or a public hearing and may be approved by the City in accordance with this Chapter. Following proper submission of an application and plat, the City shall determine whether the application and plat are complete as required by this Chapter. Following receipt of a completed application and plat, the City shall reach a final decision concerning the application within fifteen (15) days of the date of submission of the completed application and plat. Such deadline may be extended upon agreement of the applicant and the City. Unless otherwise extended, a failure by the City to reach a final decision within fifteen (15) days shall be deemed an administrative decision to deny the application.

7-6-5: STANDARDS FOR APPROVAL. An application and plat subject to this Chapter shall be administratively approved by the City where the City finds all of the following to be established by the application and plat:

- A. The proposed consolidation or lot adjustment meets the applicable definition of a "lot consolidation" or "minor lot adjustment" and all application and plat content requirements of this Chapter are met or satisfied; and
- B. The approval of the application is requested by all owners of record of the affected lots and the owners have properly executed the plat; and
- C. The proposed application and plat fully conform to all applicable requirements for the zone district(s) in which the affected property is located including, but not limited to, minimum lot size requirements; and
- D. Adequate utility easements are established within the affected property to provide service to the lot(s) created by or illustrated upon the plat; and
- E. Existing public trails located within the lot(s) illustrated upon the plat are preserved or new trails are dedicated by the plat that will provide, in the opinion of the City, a substantially similar or improved trail in terms of route, grade, access, surface quality, ease of maintenance, and safety; and

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- F. The proposed configuration, arrangement, and layout of the lot(s) do not/does not, in the opinion of the City, create illogically shaped lot(s) or lot(s) that are inconsistent or incompatible with other lots within the neighborhood; and
- G. The proposed application and plat do not, in the opinion of the City, substantially and adversely affect adjacent lots or raise significant issues of policy that are not addressed by the comprehensive or master plan or the City Code for the City of Cherry Hills Village.


7-6-6: CITY'S DECISION AND APPEAL.

- A. Upon a finding by the City that the application and plat meets the standards for approval set forth in Section 7-6-5, the City shall cause a fully executed plat to be recorded with the Arapahoe County Clerk and Recorder at the applicant's expense.
- B. The City shall deny an application for failure to meet the standards set forth in Section 7-6-5. Any decision to deny an application shall be made in writing stating the specific reasons for denial and the decision shall be promptly mailed or delivered to the applicant. The applicant may appeal a denial by the City to the Planning Commission by delivering a written request for appeal to the City Manager not more than thirty (30) days following the date of the applicant's receipt of the City's written notice of denial. The Planning Commission shall administratively consider an applicant's timely request for an appeal at a regular meeting. Following its consideration of the application and plat, the Planning Commission may affirm the City's decision or, upon a finding that the application meets all the standards set forth in Section 7-6-5, the Planning Commission may reverse the City's decision and order the City to approve the application and plat. In the event that the Planning Commission orders the City to approve the application and plat, the City shall cause the plat to be recorded in accordance with subsection (A) of this section.

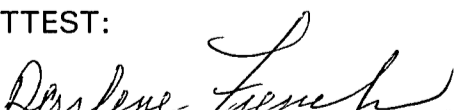
7-6-7: CONDITIONS OF APPROVAL. The City may impose reasonable conditions upon any approval of a plat that are necessary to ensure continued conformance with the standards of approval of this Chapter or the City Code for the City of Cherry Hills Village.

Section 2. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable.


Adopted as Ordinance No.3 Series 2001, by the City Council of the City of Cherry Hills Village, Colorado this 6TH day of February, 2001.



John F. Welborn, Mayor

ATTEST:


Darlene French, City Clerk

APPROVED AS TO FORM:


Robert C. Widner, City Attorney

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