Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, January 20, 2015 at 6:30 p.m.
At the Village Center

Mayor Laura Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Laura Christman, Councilors Mark Griffin, Earl Hoellen, Alex Brown, Mike Gallagher, Klasina VanderWerf, and Katy Brown were present on silent roll call. Also present were City Manager John Patterson, City Attorney Linda Michow, Deputy City Manager and Public Works Director Jay Goldie, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Barlow, Special Projects Coordinator Emily Kropf, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, and City Clerk Laura Smith.

Absent: none

PLEDGE OF ALLEGIANCE

Alanna Crook, Samantha Flower, Allie Putze and Maddie Castle, members of the cast and crew of Janie B. Jones at St. Mary's Academy, led the City Council in the pledge of allegiance.

POLICE DEPARTMENT PRESENTATIONS

Chief Tovrea presented the Chief's Commendation to Animal Control Officer/Code Enforcement Officer John Newhouse, Police Technician Nathalie Klasens, Police Clerk Sarah Henderson for their exceptional work; and to Deputy City Manager/Director Goldie, Director Proctor, Director Zuccaro, Officer Paul McCarthy, Sergeant Pat Wilson, Sergeant Paula Balafas, Sergeant Curt Wood, Police Commander Pat Weathers, Support Services Supervisor John Reynolds, and City Manager Patterson for their work to make the 2014 BMW Golf Tournament a successful event.

Mayor Christman thanked Chief Tovrea for recognizing staff and for bringing staff's exceptional work to Council's attention.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve the following items on the Consent Agenda:

a. Approval of Minutes – January 6, 2015
b. Resolution 3, Series 2015; Approving a Second Amendment to the Intergovernmental Agreement Between the City of Cherry Hills Village and the South Metro Fire Rescue Authority for the Administration and Operation of a Joint Service Facility
c. Request for Information for Improved Telecommunications Infrastructure Analysis

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

RECOMMENDATION FROM THE PUBLIC ART COMMISSION – DEBORAH BUTTERFIELD

Director Proctor explained that the Public Art Commission (PAC) was requesting Council's approval to move forward with fundraising efforts to obtain a Deborah Butterfield piece. She introduced Chair Ann Polumbus.

Chair Polumbus introduced resident Tracy McInnes who had volunteered to assist the PAC with the project, and PAC Commissioner Teresa Harbaugh who was also present. She indicated that a horse would be the perfect representational signature piece of art for the City, as many of the residents enjoyed caring for, riding or just looking at horses. She noted that this was one of the privileges of living in a semi-rural area. She explained that a Deborah Butterfield horse would fit well with the City's character, Butterfield's pieces were abstract but realistic, and it would go well in front of the Joint Public Safety Facility (JPSF) which was a beautiful building. She noted that Butterfield horses were loved, cared for, strong, beautiful, powerful, and a little edgy. She indicated that the PAC did not want to be stuck in the past. She explained that the horses were made out of bronze but looked like wood and each was one of a kind and could not be replicated. She indicated that the PAC had discussed this possibility with gallery owners, curators and private collectors and everyone was supportive and enthusiastic. She noted that the Denver Art Museum had three Butterfield horses and that the Denver Botanic Gardens would showcase the artist's work beginning in May. She noted that this would give the PAC free publicity and allow both the PAC and residents to see examples of Butterfield's work in a natural setting.

Ms. McInnes added that Butterfield was a nationally recognized artist with pieces featured in museums around the country. She noted that Butterfield horses appealed to a broad audience because they were a blend of modern and traditional.

Chair Polumbus explained that the PAC would have to fund_raise $400,000 to purchase, deliver and install a Butterfield horse. She added that they had received offers of help from several private collectors and curators.

Councilor Hoellen asked if the PAC had received permission from the South Metro Fire Rescue (SMFR) to place a Butterfield horse in front of the JPSF.

Chair Polumbus replied that they had received permission from SMFR through Chief Tovrea.

Councilor Griffin asked about the durability of the piece, and whether the PAC would pursue purchase a standing horse or one lying down.

Chair Polumbus replied that the pieces were very durable and meant to be outside, and that the PAC would pursue obtaining a standing horse.

Councilor VanderWerf added that originally Butterfield had created her horses using wood but because they were not durable switched to bronze.

Councilor Griffin expressed concern with vandalism.

Chair Polumbus replied that vandalism of public art was not an issue in the City and was not an issue in many cities with public art.

Ms. McInnes added that placing the piece in front of the JPSF might also help to deter vandalism.

Mayor Christman indicated that discussion of public art might be part of the John Meade Park ~~m~~Master ~~p~~Plan process and asked if the piece could be moved in the future.

Chair Polumbus confirmed that the piece could be moved and noted that the recommended motion for Council's approval placed the piece in the Village Center campus rather than specifically in front of the JPSF.

Councilor Gallagher asked about the time_frame for obtaining the piece.

Ms. McInnes replied that they expected the process to take two years.

Commissioner Harbaugh added that the PAC would keep in touch with staff and the Parks, Trails and Recreation Commission regarding the John Meade Park planning process to determine if placing the piece in John Meade Park would be preferable to placement in front of the JPSF.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve the Cherry Hills Village Public Art Commission project of beginning to raise money to purchase a Deborah Butterfield horse to be place on the Cherry Hills Village campus property.

The motion passed unanimously.

UNFINISHED BUSINESS

Public Hearing - Council Bill 14, Series 2014; Amending Chapter 16 of the Municipal Code Concerning Legal Nonconforming Uses, Short Term Rental of Single Family Dwellings and Associated Provisions (*Public Hearing and second and final reading*)

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin that the City Council enter into Executive Session pursuant to CRS 24-6-402(4)(b) for the purposes of obtaining legal advice concerning the pending Cooper litigation and the pending ordinance concerning nonconforming uses and short term rentals.

The following votes were recorded:

Mike Gallagher	yes
Mark Griffin	yes
Alex Brown	yes
Klasina VanderWerf	yes
Katy Brown	yes
Earl Hoellen	yes

Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

The Council entered into Executive Session at 7:05 p.m.

The Council returned to the regular meeting at 7:45 p.m.

Director Zuccaro explained that Council Bill 14, Series 2014 would update the City's nonconforming use standards, including the creation of a certification process for legal nonconforming uses and licensing requirements for legal non-conforming short term rental of single family dwellings. He noted that Council had passed the bill on first reading at the November 18th Council meeting. He indicated that there had been four changes to the bill since first reading. First, the licensing requirement for short term rentals to comply with a minimum building code standards to protect the health, safety and welfare of occupants was amended to reference the more specific standard of "Residential Group R-3 Boarding House" with exclusions for Chapter 13, Energy Efficiency; Chapter 14, Exterior Walls; and Chapter 16, Structural Design of the International Building Code. Second, the licensing requirement for short term rentals to have a local property manager available to respond to tenant and neighborhood concerns was amended to require the property manager to reside or be physically located within 60 miles of the rental. Third, the licensing requirement for short term rentals to have the owner provide copies of government issued identification for each occupant has been amended to require that the primary adult occupant of the rental be responsible for supplying identification upon reasonable request by the City. Fourth, the

licensing requirement for short term rentals was amended to reference applicable penalties for any violations of the requirements.

Director Zuccaro explained that the bill could be divided into two parts. The first part contained amendments to the nonconforming use provisions by establishing legal nonconforming use standards, criteria and processes. The burden of proof to meet the criteria for a legal nonconforming use was placed on the owner instead of the City. The amendment proposed categorizing the legal nonconforming use as abandoned after six months of discontinued use. The second part of the bill established guidelines for certifying short term rentals as a legal nonconforming use.

Director Zuccaro indicated that staff knew of several properties throughout the City that were being used as short term rentals and noted that this was an ongoing issue not limited to any single property. He explained that the purpose of the bill was to limit the negative impacts of short term rentals on the health, safety and welfare of the community. He noted that the occupants were transitory and the property operated similarly to a hotel. Issues involved noise, parking, traffic, trash, and loss of investment in the neighborhood. He added that City Council and Planning and Zoning Commission meeting minutes from 2012 including testimony from residents regarding negative experiences with short term rentals in their neighborhoods were on the dais for Council's consideration.

Director Zuccaro added that the health, safety and welfare considerations for the renters were also a primary purpose of the licensing requirements. As many in Colorado are aware, a tragedy occurred in 2008 when a family of four from Denver died from carbon monoxide poisoning in a short term rental house near Aspen that did not have carbon monoxide detectors installed. Use of single family residences for transient occupancy is similar to a commercial hotel, motel or boarding house use for which renters are accustomed to minimum safety and building codes. Thus, staff recommended that the proposed licensing standards require that legal nonconforming short term rentals meet the Group R-3 Boarding House occupancy requirements of the International Building Code, with exclusion for certain energy efficiency, exterior wall and structural design standards that could be considered unreasonable upgrades on an existing residence. The City's Chief Building Official provided a summary of the minimum code requirements for the Group R-3 Occupancy that the City would verify as part of the licensing requirement as an exhibit to the staff memorandum in Council packets. These requirements included carbon monoxide detectors, smoke detectors, fire sprinklers, and proper egress. Director Zuccaro noted that the City already required several of these safety standards for single family residences.

Director Zuccaro indicated that since first reading of the bill the City of Boulder had begun studying issues surrounding the short term rental of single family homes. The Boulder City Attorney's office recently issued a policy summary on short-term rentals which was included as an exhibit to the staff memorandum in Council packets, noting that short-term rentals have the structure of a hotel or motel and are illegal in many of the City's zone districts. The policy statement also notes that legally operating hotels

and motels are subject to code inspections, licensing, property taxes and lodging taxes which illegally operating short-term rentals are not currently subject to. Director Zuccaro concluded that notice of the public hearing was published in the January 1, 2015 edition of The Villager and staff had received one comment letter attached as an exhibit to the staff memorandum in Council packets.

Steve Thomas, Colorado Code Consulting, Chief Building Official for the City, explained that the main concerns addressed by the bill were life safety issues. He indicated that renters were likely unfamiliar with the emergency features of a rental home such as exits and emergency escape openings. He explained that the International Building Code required a higher level of safety including carbon monoxide and smoke detectors and alarms. He noted that the City already required that all new single family residents have sprinkler systems and that short term rental properties would be required to retrofit sprinkler systems under the proposed bill. He noted that staff had determined to exempt short term rental properties from complying with the structural chapters included in the Group R-3 Occupancy code requirements of the International Building Code.

Cherry Hills Village Police Sergeant Pat Wilson reported to Council the impacts that the Police Department had seen on neighborhoods with short term rental properties. He explained that noise was a significant issue, with large numbers of people arriving late at night. Renters often parked on both sides of the street creating a safety hazard if emergency vehicles needed to access the street, or parked on neighboring properties because renters arrived at night, were not familiar with the area, and City neighborhoods are dark by design. Renters sometimes put trash outside the residence which would attract wildlife. Sergeant Wilson noted that renters were not invested in the neighborhood or community the way permanent residents are and were less likely to consider their noise level or driving speed. He reported that the Police Department was aware of multiple short term rental properties throughout the City, and that they had responded to 12 calls for service at one short term rental property between June 2012 and November 2013, which was a high number of calls for any residence in the City. He indicated that the current wording of Chapter 16 of the Code made it difficult for the Police Department to mitigate these impacts and address the issues with the property owner as opposed to the renters, and that Council Bill 14, Series 2014 would help put the burden on the home owner where it belonged. He noted that there were likely more issues in the City than staff was aware of, such as one property at which four weddings had been held last year.

Councilor Griffin asked if the property with four weddings was being use for commercial purposes.

Sergeant Wilson replied that the property had not been investigated for commercial use.

Mayor Pro Tem A. Brown asked if the same issues could be seen with long term rentals.

Director Zuccaro replied that he was not aware of any complaints related to long term rentals.

Mayor Christman opened the Public Hearing at 8:13 p.m.

Patrick Beirne, 8 Viking Drive, indicated that he lived across from a short term rental property and agreed with Sergeant Wilson about the negative impact of short term rentals. He noted that the home was rented out multiple times a week and in addition to renters the cleaning crews contributed to increased traffic. He indicated that all the residents in the neighborhood know each other and they did not feel safe with renters coming and going. He noted that one renter had parked in his lawn and broken a sprinkler head, and on that occasion there had been 11 cars, a motor home and a motorcycle at the rental property. He indicated that renters often arrived late at night. He stated that he was against short term rentals and that it was a challenge and huge inconvenience to live next door to one due to the noise, traffic and trash.

Hearing no further comments the Public Hearing was closed at 8:16 p.m.

City Attorney Michow advised that in order to establish the legislative record both the staff reports including the exhibits be included in support of Council's motion.

Mayor Christman so noted and included.

Mayor Pro Tem A. Brown indicated that a lot of time had been put into the drafting of the bill and staff had done a good job working through the issues that Council had identified during first reading. He noted that the ordinance was appropriately focused on short term rentals based on staff's presentation and public testimony. He stated that the bill was well written, fair and does not impose unreasonable burdens.

Councilor VanderWerf noted that City staff needed teeth in order to enforce the City's regulations and keep neighborhoods safe for permanent residents to enjoy their property free from hassle. She added that the pressure was higher now than in the past and would continue to increase because of the multitude of ways a short term rental could be advertised and because taking a vacation through home rental seemed to be on the rise. She indicated that it was wise for Council to move ahead on this issue at this time.

Councilor K. Brown reiterated the points she found particularly relevant, indicating that Mr. Thomas had noted that renters lacked familiarity with the safety aspects of the rental property; several properties in the City were known issues to staff and staff suspected more were unknown, making it appropriate to address the issue at a global level; she agreed that the regulations were not overly restrictive and were focused on the health, safety and welfare of both residents and renters.

Mayor Christman indicated that staff had worked hard to address both the public safety of the community and of possible users of the rental properties. She noted that the

proposed safety standards were not significantly different from those required for single family residences. She added that public safety issues were not controversial.

Councilor Gallagher stated that the proposed ordinance was consistent towards upholding the character of the Village.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve Council Bill 14, Series 2014 on second and final reading, amending Chapter 16 of the Cherry Hills Village Municipal Code concerning legal non-conforming uses, short-term rental of single family dwellings and associated provisions, as submitted in Exhibit A to the January 20, 2015 staff memorandum as well as prior staff memorandums.

The following votes were recorded:

Mark Griffin	yes
Alex Brown	yes
Klasina VanderWerf	yes
Katy Brown	yes
Earl Hoellen	yes
Mike Gallagher	yes

Vote on the Council Bill 14-2014: 6 ayes. 0 nays. The motion carried.

Public Hearing and Request for Continuance - Request by the Arapahoe Tennis Club for an Expanded Use Permit to Install a Paddle Court with Lights and Paddle Hut (*continued from January 6, 2015*)

Director Zuccaro explained that at the January 6th Council meeting the Arapahoe Tennis Club's (ATC) request for an expanded use permit had been continued by Council to tonight's meeting, and that the ATC had requested an additional continuance to the February 17th meeting as they worked on addressing Council's concerns.

Councilor Griffin moved, seconded by Councilor VanderWerf to continue the public hearing for the Arapahoe Tennis Club Expanded Use Permit request to construct a paddle court with lights and paddle hut to the February 17, 2015 City Council meeting at 6:30 p.m.

The motion carried unanimously.

NEW BUSINESS

None

REPORTS

Mayor's Report

Mayor Christman reported that she would attend the DRCOG meeting tomorrow along with Deputy City Manager/Director Goldie and Special Projects Coordinator Kropf where the City's grant application for the High Line Canal connection project at Colorado and Hampden would be considered.

Members of City Council

Councilor Gallagher reported on the passing of resident Stanley Colburn who had been an artist, poet, gardener, and mother of four children.

Councilor Griffin had no report.

Mayor Pro Tem A. Brown had no report.

Councilor VanderWerf reported that the John Meade Park ~~m~~Master ~~p~~Planning public meeting last week had been very well handled and had involved good discussions. She added that the Residential Development Standards Committee met and discussed distributing a questionnaire for residents as well as holding public meetings. She reported that the High Line Canal Working Group would meet tomorrow.

Councilor K. Brown had no report.

Councilor Hoellen reported that he and Mayor Christman would be interviewing applicants for the board and commission openings later this week.

Members of City Boards and Commissions

Councilor K. Brown asked why the board and commission reports had been moved on the agenda.

Mayor Christman replied that reports could be moved to the top of the agenda by request.

City Manager & Staff

City Manager Patterson indicated that department monthly reports and unaudited financial statements were included in Council packets. He reported that board and commission interviews would take place on Friday; the City was processing several applications for Police Officer positions; Officer John Bayman would transition to be the new Code Enforcement Officer/Stormwater Technician; the Parks, Trails and Recreation Commission would meet with the John Meade Park consultants next Monday from 8-10 a.m.; an article in the Denver Post reported state property values were increasing; the City would receive updated property assessments from Arapahoe County later this year; Council would hold a study session at the Village Center next

Tuesday January 27th from 4-5:30 p.m.; Director Proctor estimated that 2014 revenues would exceed expenditures by $1.3 million and he recognized staff for this significant achievement; the Mayor and staff would attend the DRCOG board meeting tomorrow during which the City's grant application for the High Line Canal connection project would be considered.

City Attorney

City Attorney Michow asked if Council wished to pursue creation of Quincy Farm Foundation 501c(3) organization as introduced late last year by former Mayor Pro Tem Russell Stewart.

Mayor Christman replied that Council had discussed the issue in its last study session and determined not to move forward with creation of a 501c(3) at this time.

City Attorney Michow indicated that staff would bring a resolution for Council's consideration at the February 3rd meeting to establish license application fees for legal nonconforming short term rentals.

Mayor Pro Tem A. Brown noted that the state legislature was considering a bill regarding photo red light systems and asked if the City's photo red light at University and Belleview was operational.

Chief Tovrea replied that it was in the process of being reinstalled after CDOT's work on that intersection.

City Attorney Michow noted that the state legislature was considering a bill regarding urban renewal and she would report further at a future Council meeting.

ADJOURNMENT

Mayor Pro Tem A. Brown moved, seconded by Councilor K. Brown to proceed into Executive Session pursuant to CRS 24-6-402(4)(a) and (e) for the purpose of discussing matters related to the possible acquisition of real property and to develop strategy for negotiations and to instruct negotiators relating to such real property and immediately thereafter to stand adjourned.

The following votes were recorded:

Alex Brown	yes
Klasina VanderWerf	yes
Katy Brown	yes
Earl Hoellen	yes
Mike Gallagher	yes
Mark Griffin	yes

Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

The Executive Session began at 8:35 p.m.

The meeting adjourned at 9:10 p.m.

_____
Laura Christman, Mayor

_____
Laura Smith, City Clerk

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 5b

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: ROBERT ZUCCARO, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: RESOLUTION 4, SERIES 2015; ADOPTING NONCONFORMING SHORT TERM RENTAL LICENSE FEES

DATE: FEBRUARY 3, 2015

ISSUE:
Should the City Council approve Resolution 4, Series 2015; adopting nonconforming short term rental license fees?

BACKGROUND:
On January 20, 2015, the City Council adopted Ordinance 4, Series 2015 establishing a licensing requirement for nonconforming short term rentals of single family residences. Section 16-14-90(d) of the ordinance authorizes the City to adopt fees related to the licensing. Resolution 4, Series 2015 establishes a License Application Fee of $750 and Annual License Renewal Fee of $500. The fees are needed to cover the City's direct and indirect costs associated with the new licensing requirements, including but not limited to the City's building code consultants, city attorney and other staff time and overhead.

RECOMMENDATION:
Staff recommends approval of Resolution 4, Series 2015 as drafted.

RECOMMENDED MOTION:
"I move to approve Resolution 4, Series 2015 adopting nonconforming short term rental licensing fees."

ATTACHMENTS:
Exhibit A: Resolution 4, Series 2015

EXHIBIT A

RESOLUTION NO. 4
SERIES OF 2015

INTRODUCED BY:
SECONDED BY:

A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
ADOPTING NONCONFORMING SHORT TERM RENTAL LICENSE FEES

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, the City is authorized to adopt fees to cover the costs associated with services provided by the City; and

WHEREAS, Section 16-14-90, adopted via Council Bill No. 14, Series of 2014, authorizes the City to adopt fees related to licensing nonconforming short term rental uses; and

WHEREAS, the City Council desires to adopt such fees by resolution; and

WHEREAS, the City Council finds that the proposed fees set forth in this Resolution are reasonably related to the direct and indirect costs associated with the City's oversight, inspection, supervision, and other services provided in licensing nonconforming short term rentals within the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CHERRY HILLS VILLAGE:

Section 1. The foregoing recitals are adopted and incorporated herein as findings of the City Council.

Section 2. The following nonconforming short term rental license fees are hereby adopted by the City Council, copies of which shall be made available to the public on the City's website and at the City of Cherry Hills Village Center.

License Application Fee:	$750.00
Annual License Renewal Fee:	$500.00

Section 3. This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of the City Council this 3rd day
of February 2015, by a vote of ___ yes and ___ no.

_____
Laura Christman, Mayor

ATTEST:

_____
Laura Smith, City Clerk

APPROVED AS TO FORM:

_____
Linda Michow, City Attorney

RESOLUTION NO. 5
SERIES 2015

INTRODUCED BY:
SECONDED BY:

A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
CONCERNING THE APPOINTMENT OF MEMBERS
TO THE BOARD OF ADJUSTMENT AND APPEALS

WHEREAS, Section 8.2 of the City of Cherry Hills Village City Charter requires that members of the Board of Adjustment and Appeals be appointed by the Council for overlapping terms of three years. Each member shall be a taxpaying elector, and, in addition, shall have resided in the area comprising the City at the time of appointment for at least three years immediately preceding the date of appointment; and

WHEREAS, Board member Earl Hoellen was elected to the City Council in November 2014 and assumed duties in January 2015, prior to the end of his term on the Board; and

WHEREAS, Board member Susan Struna resigned prior to the end of her term; and

WHEREAS, applications to fill the two positions on the Board were reviewed by the City Council; and

WHEREAS, the City Council desires to appoint George Curtis and Lisa Pinto to the Board; and

WHEREAS, Board member Hoellen's term would end in May 2015 City Council has determined to appoint George Curtis to a three year term in addition to completing Board member Hoellen's term; and

WHEREAS, Board member Struna's term would end in May 2016 and City Council has determined to appoint Lisa Pinto to complete the term.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE THAT:

The City Council hereby makes the following appointments to the City of Cherry Hills Village Board of Adjustment and Appeals:

Name	**Term Expires**
George Curtis	3rd Tuesday in May 2018
Lisa Pinto	3rd Tuesday in May 2016

This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this __ day
of ____, 201_, by a vote of _ yes and _ no.

(SEAL)

_____
Laura Christman, Mayor

ATTEST:

_____
Laura Smith, City Clerk

APPROVED AS TO FORM:

_____
Linda C. Michow, City Attorney

RESOLUTION NO. 6
SERIES 2015

INTRODUCED BY:
SECONDED BY:

A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
CONCERNING THE APPOINTMENT OF MEMBERS
TO THE PLANNING AND ZONING COMMISSION

WHEREAS, in accordance with Section 8.3 of the City of Cherry Hills Village Home Rule Charter, members of the Planning and Zoning Commission shall be appointed by the City Council for overlapping terms of three years. Each member shall be a taxpaying elector and in addition shall have resided in the area comprising the City at the time of his appointment for at least three years immediately preceding the date of appointment; and

WHEREAS, Chair Laura Christman was elected as Mayor in November 2014 and assumed duties in January 2015; and

WHEREAS, Chair Christman's term ended in January 2015; and

WHEREAS, applications to fill the position on the Commission were reviewed by the City Council; and

WHEREAS, the City Council desires to appoint Dori Kaplan to a new term on the Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE THAT:

The City Council hereby makes the following appointments to the City of Cherry Hills Village Planning and Zoning Commission:

Name	**Term Expires**
Dori Kaplan	3rd Tuesday in September 2018

This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this __ day
of ____, 201_, by a vote of _ yes and _ no.

(SEAL)

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

RESOLUTION NO. 7
SERIES 2015

INTRODUCED BY:
SECONDED BY:

A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
CONCERNING THE APPOINTMENT OF MEMBERS
TO THE PARKS, TRAILS AND RECREATION COMMISSION

WHEREAS, Ordinance 02-12 established the Parks, Trails and Recreation Commission; and

WHEREAS, Section 3.1 of the City of Cherry Hills Village City Charter authorizes the City Council to "delegate to board and commissions...such functions, powers and authority of the City as it deems proper and advisable"; and

WHEREAS, Section 2-8-30 of the City Municipal Code requires that the Parks, Trails and Recreation Commission shall consist of seven (7) members: one (1) from each Council district; and one member appointed on an at-large basis; provided, however that if the Council is not reasonably able to appoint one member from each Council district the Council may appoint one or more members of the commission on an at-large basis. On the date of appointment, each district member shall be a registered elector of the City for at least three (3) years immediately preceding the date of appointment. Each district member shall be a resident of the district on the date of appointment and throughout his or her term of office; and

WHEREAS, Commissioner Mike Gallagher was elected to the City Council in November 2014 and assumed duties in January 2015, prior to the end of his term on the Commission; and

WHEREAS, applications to fill the position on the Commission were reviewed by the City Council; and

WHEREAS, the City Council desires to appoint John Kokish to complete the term on the Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE THAT:

The City Council hereby makes the following appointments to the City of Cherry Hills Village Parks, Trails and Recreation Commission:

Name	District	Term Expires
John Kokish	6	3rd Tuesday in May 2017

This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this __ day
of ____, 201_, by a vote of _ yes and _ no.

(SEAL)

_____
Laura Christman, Mayor

ATTEST:

_____
Laura Smith, City Clerk

APPROVED AS TO FORM:

_____
Linda C. Michow, City Attorney

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Cherry Hills Village, CO 80113
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Telephone 303-789-2541
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ITEM: 5f

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: JAY GOLDIE, DEPUTY CITY MANAGER/DIRECTOR OF PUBLIC WORKS

SUBJECT: RESOLUTION 08, SERIES 2015 QUITCLAIM PROPERTY TO CDOT

DATE: FEBRUARY 3, 2015

ISSUE

Should the City of Cherry Hills Village quitclaim a parcel of land to CDOT north of Hampden Avenue west of Lafayette Street?

DISCUSSION

In 2000, the City of Cherry Hills Village purchased the triangle shaped lot to the south of Hampden from CDOT for $75,000. The original purchase document does not show the inclusion of the small piece in question that lies to the north of Hampden. Prior to CDOT contacting the City, staff was not aware that the City owned this small sliver of land that is approximately 275 square feet and is virtually unusable as a majority of it sits in an Englewood alleyway. The property is entirely within the boundaries of the City of Englewood and is governed by these zoning requirements.

CDOT approached the City and asked that this small parcel be quitclaimed to CDOT simply to clean up the property lines in the area as CDOT is planning on disposing of the small adjacent parcel in the future. If Cherry Hills Village agrees to this process, CDOT will quitclaim the appropriate portion of the property to Englewood to make the ally whole and insure that it remains fully functional. This process simply clarifies any jurisdictional issues that may arise in the future and cleans up any possible future confusion that this small parcel might create. Staff finds that there is no true monetary gain or loss by agreeing to this process. Staff fully supports participation and believes that this helps Cherry Hills Village by eliminating any future liabilities including maintenance and upkeep of the alley way and sidewalk. Staff has worked with City Attorney Michow on both the quitclaim deed and resolution and both have been reviewed and approved as to form.

STAFF RECOMMENDATION
"I move to approve Resolution 8, Series 2015 authorizing the Mayor to Execute a quitclaim deed, quitclaiming approximately 275 square feet of excess City property located in the NW ¼ of section 2, township 5 south, range 68 west, to the Colorado Department of Transportation."

ATTACHMENTS
Exhibit A: Resolution 8, Series 2015

EXHIBIT A

RESOLUTION NO. ___
SERIES OF 2015

INTRODUCED BY: _____
SECONDED BY: _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE AUTHORIZING THE MAYOR TO EXECUTE A QUITCLAIM DEED QUITCLAIMING APPROXIMATELY 275 SQUARE FEET OF EXCESS CITY PROPERTY LOCATED IN THE NW 1/4 OF SECTION 2, TOWNSHIP 5 SOUTH, RANGE 68 WEST TO THE COLORADO DEPARTMENT OF TRANSPORTATION

WHEREAS, pursuant to Section 1.3 of its Home Rule Charter and C.R.S. § 31-15-101(1)(d), the City of Cherry Hills Village ("Village") is authorized to acquire and dispose of real property; and

WHEREAS, the Colorado Department of Transportation ("CDOT") has requested that approximately 275 square feet of property located in the NW 1/4 of Section 2, Township 5 South, Range 68 West (Parcel Number: 53-Rev EX) currently owned by the City as excess property (the "Subject Property") be deeded to CDOT; and

WHEREAS, the Subject Property is described with particularity in the quitclaim deed attached to this Resolution as **Exhibit 1** and incorporated herein by reference; and

WHEREAS, the Subject Property is not held by the City for parks, open space, or other municipal purposes; and

WHEREAS, the City Council declares the disposition of the Subject Property as provided by this Resolution to be an exercise of its administrative power as provided by Colorado law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO THAT:

Section 1. Disposition of Subject Property to CDOT. The City Council hereby approves the disposition of the Subject Property to CDOT.

Section 2. Execution of Documents. The Mayor is authorized to execute all documents necessary to facilitate or complete the disposition of the Subject Property to CDOT, following the review and approval of all such documents as to form by the City Attorney.

Section 3. Effective Date. This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of the City Council this ___ day
of _____, 2015, by a vote of ___ yes and ___ no.

_____
Laura Christman, Mayor

ATTEST:

_____
Laura Smith, City Clerk

Approved as to form:

_____
Linda C. Michow, City Attorney

Following recordation, return to:

Marcus McAskin
Widner, Michow & Cox LLP
13133 E. Arapahoe Road, Suite 100
Centennial, Colorado 80112

NO DOCUMENTARY FEE REQUIRED PER C.R.S. § 39-13-104(1)(a)

QUITCLAIM DEED

This Quitclaim Deed is made by and between the **CITY OF CHERRY HILLS VILLAGE**, a Colorado home rule municipal corporation, whose address is 2450 E. Quincy Avenue, Cherry Hills Village, Colorado 80113 ("Grantor"), and the **DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO**, whose legal address is 4201 E. Arkansas Avenue, Denver, Colorado 80222 (the "Grantee").

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars ($10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto Grantee and Grantee's successors, and assigns, forever, all right, title, interest, claim and demand which Grantor has in and to the real property, together with improvements, if any situate, lying and being in the County of Arapahoe, State of Colorado, described as follows:

Former Project Number: F002-2(33)
Project Code: N/A

See attached **Exhibit A** dated 12-23-2014
Parcel Number: 53 Rex EX

Also known as street address: N/A
And Arapahoe County Assessor's schedule or parcel number: 2077-02-2-02-010

(the "Subject Property").

TO HAVE AND TO HOLD the Subject Property, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of Grantor, either in law or equity, to the only proper use, benefit and behoof of Grantee and Grantee's successors, and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed on the date set forth below.

CITY OF CHERRY HILLS VILLAGE, a Colorado home rule municipal corporation

By: _____
Laura Christman, Mayor, pursuant to authority set forth in Resolution No. ___, Series of 2015

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Laura Christman, as Mayor of the City of Cherry Hills Village, a Colorado home rule municipal corporation.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

EXHIBIT "A"

PROJECT NUMBER: F002-2(33)
PARCEL NUMBER: PARCEL-3AX
DATE: October 9, 2014

DESCRIPTION

A tract or parcel of land situated in the SW ¼ of Section 2, Township 5 South, Range 68 West of the Sixth Principal Meridian, the City of Englewood, Arapahoe County, Colorado, Project No. F002-2(33):

· Parcel No. 3A as described in Book 766 at Page 112 recorded in the office of the County of Arapahoe Clerk and Recorder's office;
· Parcel No. 53 Rev. as described in Book 951 at Page 242 recorded in the office of the County of Arapahoe Clerk and Recorder's office;

Commencing at a point being the northwest corner of Parcel 3A as described in Book 766 at Page 112 in said office of the Arapahoe County Clerk and Recorder's office whence a found 1" washer and nail P.L.S. #23524 at the northwest corner of a parcel of land described in Reception #03138164 of said office of the Arapahoe County Clerk and Recorder's office bears N. 01°44'08"E. 312.65 feet.

Thence N. 89°33'58" E., a distance of 123.61 feet along the south line of said parcel of land described in Reception #03138164 to the southwest corner of Parcel #54 Project No. F002—2(33) as described in Book 949 at Page 59 of said Arapahoe County Clerk and Recorder's office; said point also being on the west right-of-way line of Colorado State Highway #285 South Hampden Avenue;

Thence along said west right-of-way line the following two (2) courses:
1. S. 43°46'00" W., a distance of 97.53 feet;

2. Thence a distance of 76.70 feet on the arc of a curve to the right having a radius of 614.12 feet, a central angle of 07°09'21", a chord bearing S. 47°20'41" W., a distance of 76.65 feet; to a point on said west line of a parcel of land described in Book 766 at Page 112;

4. Thence N. 00°06'37" E along said west line, a distance of 121.44 feet, more or less, to the POINT OF BEGINNING.

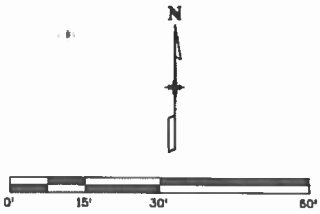
The above described parcel contains 7,799 sq. ft. (0.179 acres), more or less.

Basis of Bearings: All bearings are based on a line between a found 1" washer and nail P.L.S. #23524 at the northwest corner of a parcel of land described in Reception #03138164 of said office of the

Arapahoe County Clerk and Recorder's office and a found 1" washer and nail P.L.S. #23524 at the northeast corner of said parcel of land described in said Reception #03138164 said corner also being the northeast corner of Block 3 Verona Place which bears N.89°35'43"E. a distance of 149.89 feet.

Section 2
T5S, R68W of the 6th P.M.

COUNTY OF
Arapahoe



Parcel 53 Rev-EX

Owner(s):
The City Cherry Hills Village

Mailing Address:
2450 E. Quincy Ave.
Cherry Hills Village, Co. 80113
Property Address: N/A

Site:
Contains 275 sq. ft.
(0.006 Acres)

Authored by:
Kathryn Lyon, PLS 38110
CDOT, Region 1 R.O.W./Survey Central Unit
2000 S. Holly St.
Denver CO 80222
303-757-9923

Legal Description - Exhibit A

Colorado Department of Transportation

2000 S. Holly
Denver, CO 80222
Phone: 303-757-9923

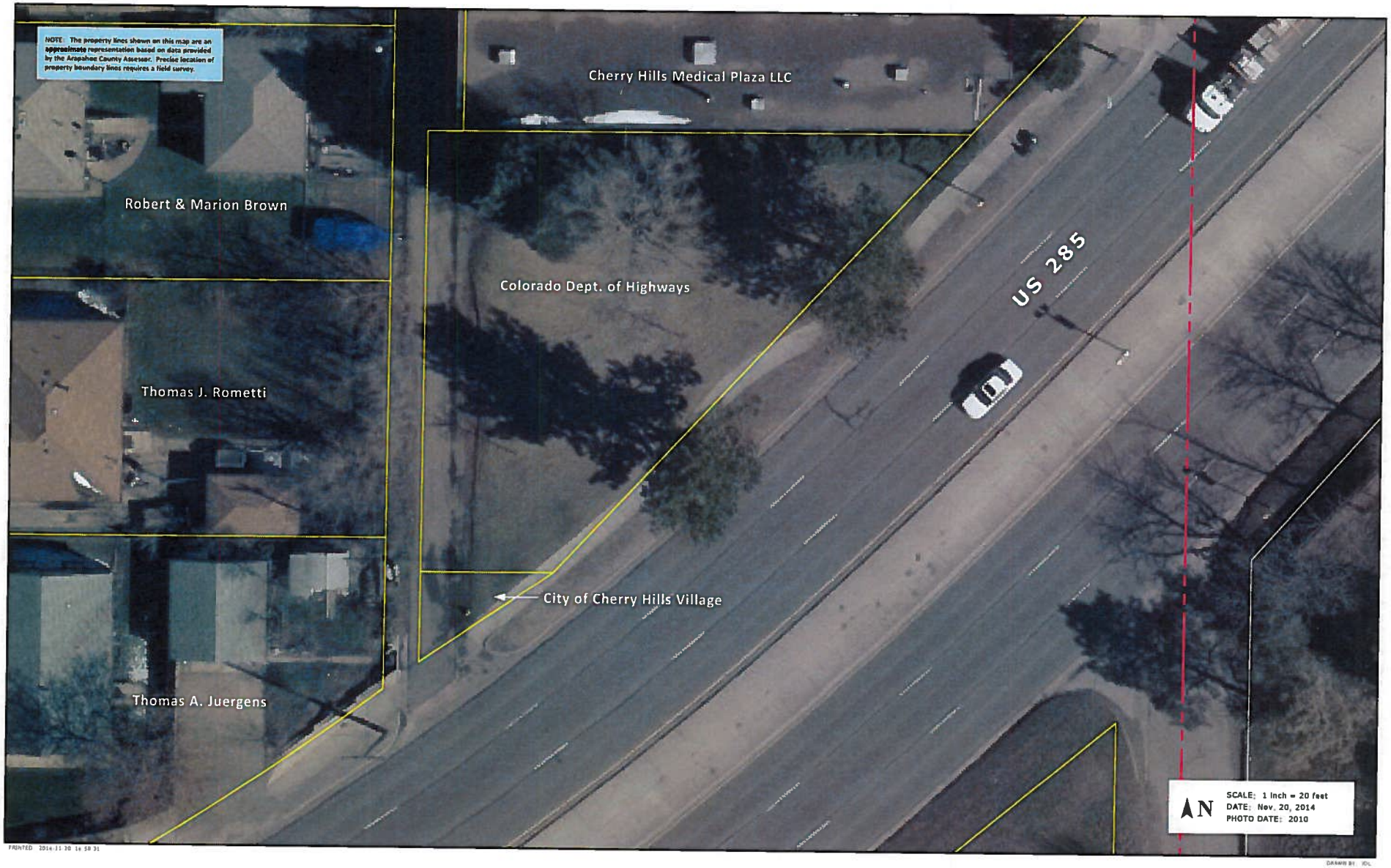
Region 1

KJL

This drawing graphically depicts the attached legal description only. This drawing does not represent a Land Survey.

Project Number: F002-2(33)
Project Location: SH 285; Hampden Ave.
NW 1/4 Sec. 2, T5S, R68W/6th PM

Project Code:	Last Mod. Date	Subset	Sheet No.
N/A	12-19-14		5



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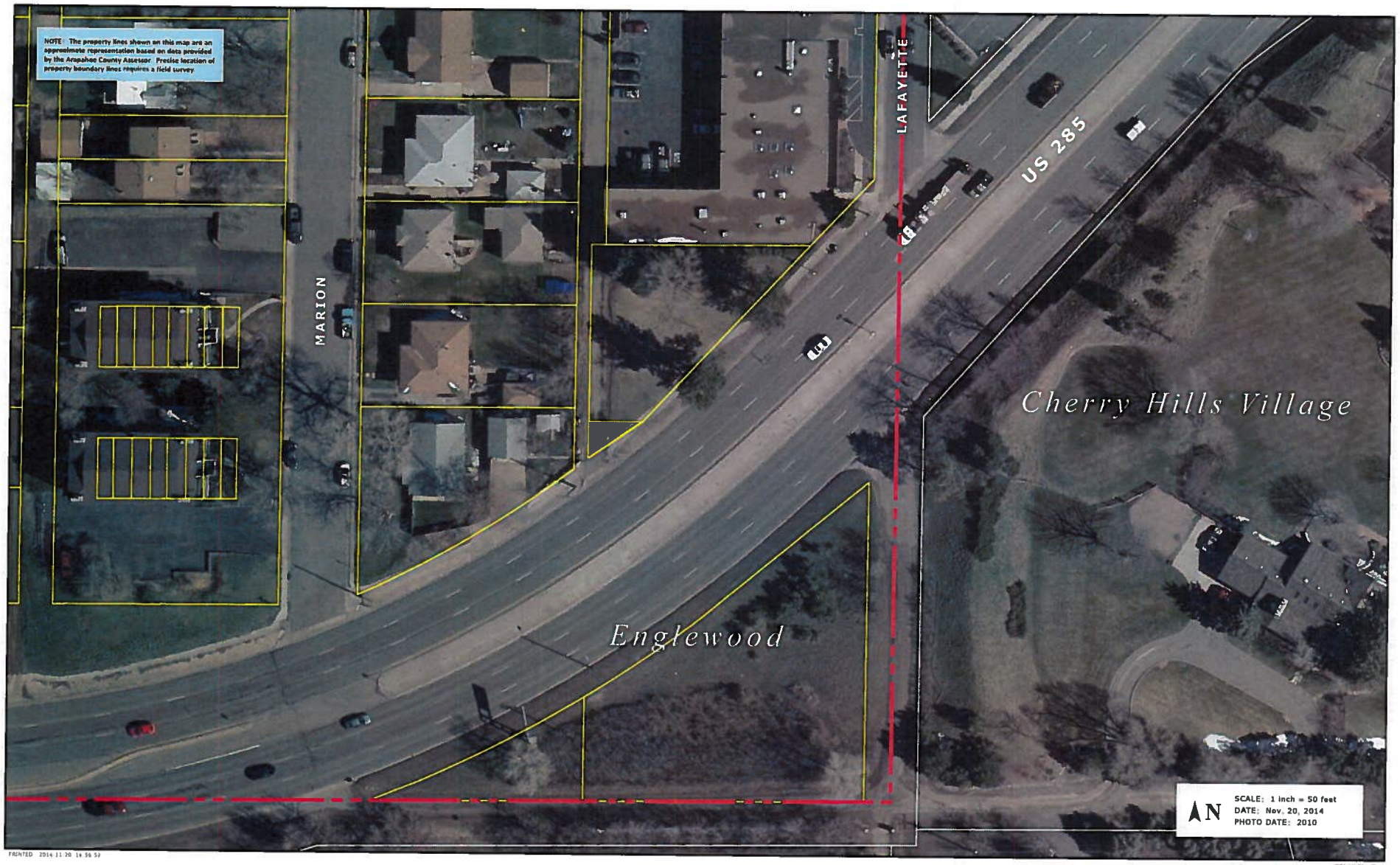
DRAWN BY: JDL



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TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining [illegible] alien and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the said Grantor or Grantors, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said Grantee and its successors and assigns forever. And the said Grantor or Grantors, for themselves, their heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said Grantee and its successors and assigns, that at the time of the execution and delivery of these presents, they were well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in Fee Simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form aforesaid; that the same are free and clear from all other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatsoever kind or nature soever, by, through or under the Grantor or Grantors; that the said Grantor or Grantors will *WARRANT AND FOREVER DEFEND* the above bargained premises in the quiet and peaceable possession of the said Grantee, and its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, by, through or under the said Grantor or Grantors.

IN WITNESS WHEREOF, the said Grantor or Grantors have hereunto set their hands this _____ day of January 18 A.D., 19 56

Signed in the presence of:

Harry W Rabb
HARRY W. RABB

STATE OF Colorado
City and County of Denver } ss.

The foregoing instrument was acknowledged before me this 18th day of January, 1956
by HARRY W. RABB.

WITNESS my hand and Official Seal,
My Commission expires June 1, 1958

Fred A Nagel
Notary Public

STATE OF _____
_____ and County of _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19__
by _____

WITNESS my hand and Official Seal,

My Commission Expires _____

Notary Public

57550R

SPECIAL Warranty Deed

FROM

HARRY W. RABB

TO

The Denver Urban Renewal Authority

STATE OF COLORADO } ss.
County of Denver

[illegible]

Recorded at 1:45 o'clock P.M. JAN 20 1958 A.D.
Reception No. 575502

Know All Men By These Presents

That I, or We,

HARRY A. HARB

the Grantor within-named

of the and County of Arapahoe and State of Colorado

for and in consideration of the sum of TEN DOLLARS and other good and valuable considerations to the said Grantor or Grantors in hand paid, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do hereby GRANT, BARGAIN, SELL AND CONVEY unto

The Department of Highways, State of Colorado,

Grantee, its successors and assigns forever, the following real property situated in the and County of and State of Colorado, to-wit:

A tract or parcel of land, No. 1A of Grantee's Project No. F 002-3(33) containing 2,458 sq. ft. more or less, in Cherry Hills Village in the NW¼ of Sec. 2, T. 5 S., R. 68 W., of the Sixth P.M., in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the N. line of Tract 2, Verona Plaza, Cherry Hills Village, in the NW¼ of Sec. 2, T. 5 S., R. 68 W., from which the NE corner of Tract 2 bears S. 89° 53' 30" E. a distance of 51.0 feet;

1. Thence along the N. line of Tract 2, N. 89° 53' 30" W. a distance of 87.0 feet;
2. Thence S. 0° 19' 30" W. a distance of 52.0 feet;
3. Thence S. 43° 46' 30" W. a distance of 90.2 feet;
4. Thence along the arc of a curve to the right a distance of 186.1 feet the radius of which arc has a length of 734.1 feet, and the chord of which arc bears W. 51° 03' E. a distance of 186.1 feet more or less, to the point of beginning.

AND

A tract or parcel of land No. 53 Rev. of Grantee's Project No. F 002-3(33) containing 33,786 sq. ft., more or less, located by of Englewood in the NW¼ of Sec. 2, T. 5 S., R. 68 W., of the Sixth P.M., in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

The SW¼ of Block 3, Verona Plaza in the City of Englewood in the NW¼ of Sec. 2, T. 5 S., R. 68 W., except the W. 170 feet thereof.

The above described parcel contains 33,786 sq. ft., more or less.

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 5g

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: JAY GOLDIE, DEPUTY CITY MANAGER/DIRECTOR OF PUBLIC WORKS

SUBJECT: HIGHWAY USER TAX FUNDS (HUTF) MILEAGE CERTIFICATION

DATE: FEBRUARY 3, 2015

Each year the City is required to certify with CDOT the number of miles of roads that are owned and maintained by the City. The Highway User Tax Fund (HUTF) is a statutorily defined, state-collected, locally-shared revenue that is distributed monthly among the state, counties and municipalities.

Each municipality receives a share of the municipal portion of the HUTF. Shares are based on a formula that takes into account the number of vehicles registered and the center line miles of streets in each municipality relative to the same data in other municipalities. Generally, eighty percent (80%) of the distribution is based on the number of vehicles registered and twenty percent (20%) on the center line miles of streets in a community. Each municipality's percentage share is calculated annually in July and is based on: 1) the previous year's vehicle registration figure, as certified by the Department of Revenue to the State Treasurer, and 2) the previous year's miles of open, used and maintained streets as certified to the Treasurer by CDOT, which uses data from each entity's Annual Certification of Condition and Mileage Report.

In 2014, the City received approximately $228,000 from the HUTF. In 2015, it is estimated that this income will be $239,000. Staff reviewed the certification sheet provided by CDOT and verified that the information provided on the City's streets is correct.

RECOMMENDATION
Staff recommends that City Council approve the December 31, 2014 HUTF Certification for the City of Cherry Hills Village. This Certification is required for the City to receive Highway and User Tax Funds through the State of Colorado.

RECOMMENDED MOTION
"I move to approve the HUTF Certification as presented by staff and authorize the Mayor to sign on behalf of the City of Cherry Hills Village."

ATTACHMENT
Exhibit A: HUTF Signature Page

1/26/2015

Colorado Department of Transportation

Cherry Hills Village Signature Sheet

FIPS Code : 13845

5.68 miles of arterial streets

44.18 miles of local streets

49.86 total miles of H.U.T. eligible streets

1.38 miles of non H.U.T. eligible streets - Maintained by others

0 miles of non H.U.T. eligible streets - Not maintained

This mileage is the certified total as of December 31, 2014

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws, that the statements made on this document are true and complete to the best of my knowledge.

Mayor Date

City Clerk Date

We are required to inform you that a penalty of perjury statement is required persuant to section 18-8-503 C.R.S. 2005, concerning the removal of requirements that certain forms be notarized.

The Colorado Department of Transportation can contact the following person with questions regarding this report:

Name Phone

Submit this signed copy with your annual mileage change report to the Colorado Department of Transportation.

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF CHERRY HILLS VILLAGE AND CONSERVATION PARTNERS, INC.

THIS PROFESSIONAL SERVICES AGREEMENT ("***Agreement***") is made and entered into this 3rd day of February 2015, ("***Effective Date***") by and between the **CITY OF CHERRY HILLS VILLAGE**, a Colorado home rule municipal corporation, 2450 E. Quincy Ave., Cherry Hills Village, CO 80113 (the "***City***"), and Conservation Partners, Inc., a Colorado corporation, 1138 Humboldt St., Denver, CO 80218 (the "***Consultant***"). The City and the Consultant may be collectively referred to as the "***Parties***" and each individually as "***Party***".

WHEREAS, the Consultant represents to the City that the Consultant has the skill, ability, and expertise to perform the services described in this Agreement; and

WHEREAS, the City desires to engage the Consultant to provide the services described in this Agreement subject to the terms and conditions of the Agreement.

NOW, THEREFORE, inconsideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed by and between the Parties as follows:

1. CITY REPRESENTATIVES: In coordination of the Services provided herein, the Consultant shall communicate through the City Attorney and City Manager.

2. SCOPE OF SERVICES AND COMPENSATION: Consultant shall perform all services described in **Exhibit A** (the "***Services***") diligently and professionally and in a manner satisfactory to the City in exchange for the compensation set forth in **Exhibit A.**

3. TERM AND TERMINATION:

(a) It is mutually agreed by the Parties that the term of this Agreement shall commence as of the Effective Date and may be terminated by either Party without cause or reason upon thirty (30) days prior written notice to the non-terminating Party. Said notice shall be addressed to the City or Consultant at the addresses shown hereinabove and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

(b) Upon termination all rights and duties of the parties toward each other shall cease except:

1. That City shall be obliged to pay, within forty-five (45) days of the effective date of termination, all amounts owing to Consultant for unpaid Services completed as of the date of termination and related expenses, if any, in accordance with the provisions of Section 2 (Services and Compensation) hereof less any right of setoff for amounts Consultant owes the City; and

2. Section 4 (Confidentiality), Section 5 (Conflict of Interest), Section 6 (Independent Contractor) and Section 8 (Equitable Relief) shall survive termination of this Agreement.

4. CONFIDENTIALITY:

(a) ***"Confidential Information"*** means all information, in whatever form transmitted to, or discussed with, the Consultant relating to the Services, including without limitation, executive session meetings, communications, appraisals, surveys, reports or data, or other similar information held by the City or the Consultant in connection with the Services, or that is produced or developed by the City or the Consultant during the performance or evaluation of the Services. Without limiting the forgoing, Confidential Information shall include the nature, purpose, property owners involved, property affected or concerned, and the scope of any of the Services provided, however, that the Consultant may disclose to others that he is "engaged in the performance of consulting services for the City of Cherry Hills Village."

(b) During and subsequent to the term of this Agreement, the Consultant will not use the Confidential Information for any purpose whatsoever other than the performance of the Services and specifically agrees to not disclose the Confidential Information to any third party. The City may provide to the Consultant, by written letter or electronic mail message only, authorization to make one or more limited and specific disclosures of otherwise Confidential Information to one or more third parties and such written authorization shall constitute an exclusion of such limited or specific disclosure from the meaning of "Confidential Information." The parties specifically acknowledge and agree that the Confidential Information shall remain the sole property of the City, and the Consultant agrees to return all documentation in whatever form or media relating to the Confidential Information to the City, upon the City's request. The Consultant shall not retain any reproductions or other documentation pertaining to the Confidential Information, without the City's express written consent. Consultant further agrees to take all reasonable precautions to prevent any unauthorized disclosure of the Confidential Information to third parties. Confidential Information does not include information which: (1) is known by the Consultant on a non-confidential basis at the time of disclosure as evidenced by written records of the Consultant, or (2) has become publicly known and made generally available through no wrongful or negligent act of the Consultant, whether through disclosure at an open meeting or through a Colorado Open Records Act request or otherwise (*"Non-confidential Information"*). However, prior to making any disclosure of any Non-confidential Information to any third parties which relates directly or indirectly to the Services, the Consultant shall give the City Manager of the City of Cherry Hills Village prompt written notice and an opportunity to object to the proposed disclosure of the Non-confidential Information or to take action to assure proper handling of the disclosure of such Non-Confidential Information to said third parties.

5. CONFLICT OF INTEREST: The Consultant agrees and represents that during the term of this Agreement, no officer or employee of Consultant has any agreements or obligations that are or may be in conflict with the provisions of this Agreement, or that would preclude Consultant from complying with the provisions herein.

6. INSURANCE: The Consultant shall obtain and maintain the types, forms, and coverage(s) of insurance deemed by the Consultant to be sufficient to meet or exceed the Consultant's minimum statutory and legal obligations arising under this Agreement, including the indemnification obligations set forth in Section 8. The Consultant's failure to obtain and continuously maintain policies of insurance in accordance with this Section shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Consultant arising from performance or non-performance of this Agreement.

7. INDEPENDENT CONTRACTOR: The Consultant shall perform the Services as an independent Contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the City other than as a contracting party and independent Consultant. The City shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or the Consultant's employees, sub-consultants, Consultants, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

8. INDEMNIFICATION: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever. The Consultant shall defend, indemnify and hold harmless the City, its elected officials, officers, directors, agents, and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, in any way resulting from or arising from this Agreement; provided, however, that the Consultant need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the negligence of City's elected officials, officers, directors, agents, and employees. The Consultant's defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in this Agreement shall be construed as requiring the Consultant to defend in litigation, indemnify or insure the City against liability arising out of the death or bodily injury to person or damage to property caused by the negligence or fault of the City or any third party under the control or supervision of the City.

9. EQUITABLE RELIEF: The Parties agree that it would be impossible or inadequate to measure and calculate City's damages from any breach of the covenants set forth in Section 4 herein. Accordingly, Consultant and City agree that in the event of a breach of Section 4, City will have available, in addition to any other right or remedy available, the right to obtain from any court of competent jurisdiction an injunction restraining such breach or threatened breach and specific performance of any such provision. Consultant agrees that no bond or other security shall be required in obtaining such equitable relief and Consultant hereby consents to the issuance of such injunction and to the ordering of such specific performance.

10. NO WAIVER OF GOVERNMENTAL IMMUNITY: The Parties hereto understand and agree that the City, its elected officials, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as the same may be amended from time to time, or otherwise available to the City.

11. ASSIGNMENT: Neither this Agreement nor any right hereunder may be assigned or transferred by either Party without the express written consent of the other party.

12. OWNERSHIP OF DOCUMENTS: Working papers, reports and other documents prepared by the Consultant in connection with this Agreement shall be and remain the property of the City, unless otherwise directed in writing by the City.

13. NONDISCRIMINATION: In connection with the performance of work under this Agreement, the Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because

of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

14. ILLEGAL ALIENS: Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant shall not contract with a subcontractor that fails to certify that the subcontractor does not knowingly employ or contract with any illegal aliens. By entering into this Agreement, Consultant certifies that it has verified, or attempted to verify, through participation in the basic pilot program that the Consultant does not employ any illegal aliens. If the Consultant is not accepted into the basic pilot program, the Consultant shall apply to participate in the basic pilot program every three months until the Consultant is accepted, or this Agreement had been completed, whichever is earlier. The Consultant is prohibited from using the basic pilot program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed. If the Consultant obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall be required to notify the subcontractor and the City within three (3) days that the Consultant has actual knowledge that a subcontractor is employing or contracting with an illegal alien. The Consultant shall terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three (3) days of receiving the notice regarding Consultant's actual knowledge. The Consultant shall not terminate the subcontract if, during such three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Consultant is required to comply with any reasonable request made by the Department of Labor and Employment made in the course of an investigation undertaken to determine compliance with this provision and applicable state law. If the Consultant violates this provision, the City may terminate this Agreement, and the Consultant may be liable for actual and/or consequential damages incurred by the City, notwithstanding any limitation on such damages provided by such Agreement.

15. GOVERNING LAW; VENUE: This Agreement shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Arapahoe, State of Colorado.

16. SEVERABILITY: In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected, provided that the remaining provisions without the invalidated provisions are consistent with the Parties' intent. Should either party fail to enforce a specific term of this Agreement it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

17. NO THIRD PARTY BENEFICIARIES: The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

IN WITNESS WHEREOF, the City and the Consultant have executed this Professional Services Agreement as of the above date.

CITY:
CITY OF CHERRY HILLS VILLAGE,
a Colorado home rule municipal corporation

BY: _____
Laura Christman, Mayor

DATE: _____, 2015

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CONSULTANT:
CONSERVATION PARTNERS, INC.

BY: _____

_____
Print Name

_____
Title

DATE: _____, 2013

EXHIBIT A

SCOPE OF SERVICES

Services to be Provided (*"Services"*):

Task 1: Assist with Property Negotiations.
Conservation Partners will provide the City with a variety of Services related to the potential acquisition of designated properties, parcels or easements in Cherry Hills Village. These Services may include: land planning and design of alternative configurations of property; identification of management issues and options; review and comment of property information and due diligence items; participation in negotiations with the owners working with City Attorney; oversight of appraisal and survey processes on behalf of City; interact with Council-designated Working Group on a regular basis and work with city departments on review of property items and issues; and, structure terms and conditions for a purchase option of the property.

Task 2: Present Status Information and Reports to City Council and City Departments.
Conservation Partners will present periodic reports and information to the City Council as necessary to keep them informed and assist with their decision-making with regard to the property. Conservation Partners will also work with the City staff on a variety of issues related to the structure of the purchase option and agreements.

Compensation to be Paid:

(a) City shall pay the Consultant an initial retainer of Two Thousand Dollars ($2,000.00) for the Services described above. The retainer shall be paid following the date of mutual execution of this Agreement.

(b) City shall pay the Consultant an hourly rate of $200 per hour for the Services, provided that the total compensation to be paid to the Consultant under this Agreement shall not exceed Twenty Thousand Dollars ($20,000.00) (the "Not to Exceed Amount") unless a written amendment to this Agreement is executed by the Parties.

(c) In addition to the Not to Exceed Amount, expenses incurred by Consultant in performing Services pursuant to this Agreement shall be invoiced to the City at cost with no additional mark-up.

(d) The Consultant shall invoice the City on a monthly basis and the City shall pay undisputed invoices within thirty (30) days of receipt.

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 8a

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: ROBERT ZUCCARO, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: COUNCIL BILL 1, SERIES 2015; AMENDING SECTIONS 16-1-10 AND 16-18-20 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING GUARD HOUSES (FIRST READING)

DATE: FEBRUARY 3, 2015

ISSUE:
Should the City Council approve Council Bill 1, Series 2015 on first reading, amending Municipal Code Sections 16-1-10 and 16-18-20 to remove the current restrictions stating that subdivision guard houses shall only be allowed for monitoring private streets (see Exhibit A for Council Bill 1, Series 2015)? The Cherry Hills Farm Home Owners' Association (HOA) requests the proposed amendments in order to construct a guard house on an existing tract of land at the South University Boulevard entrance to the subdivision (see Exhibit B for request letter). According to the HOA, the guard house would not include a gate or be intended to restrict access to the Subdivision.

BACKGROUND:
Current Code Requirements:
Under each of the City's residential zone districts a guardhouse is allowed as a Conditional Use. Conditional Use procedures and review criteria are outlined in Article XVIII of the Zoning Ordinance (see Exhibit C for Article XVIII). A Conditional Use proposal is reviewed at public hearings before the Planning and Zoning Commission and City Council based on the general review criteria in Section 16-18-10. For a Guardhouse, the following specific review criteria are applicable:

Sec. 16-18-20. Requirements and conditions for specific uses.
(a) Guardhouses. In addition to meeting all other requirements of this Article, guardhouses are permitted in the R-1, R-2, R-3, R-4, R-5 and R-3A Zone Districts, subject to the following:

(1) *Provisions of this Chapter prescribing lot area minimums shall not apply to guardhouse tracts.*

(2) *Provisions of this Chapter permitting accessory structures and prescribing lot and yard width minimums shall not apply to guardhouses.*

(3) *No use or structure shall be considered accessory to a commonly owned private facility use. No use or structure shall be permitted as an accessory use or structure on a guardhouse tract.*

(4) *A guardhouse may only be permitted on guardhouse tracts.*

(5) *All guardhouse tracts shall be located within and entirely surrounded by a private street, or adjacent to a private street. For purposes of this Paragraph, adjacent means having at least twenty-five percent (25%) of the perimeter coincident with the edge of one (1) or more private streets.*

(6) *Unless contained entirely within and surrounded by a private street, all guardhouse tracts shall be separately subdivided parcels.*

(7) *All guardhouse tracts shall be adequate in area to allow for simultaneous parking of one (1) employee vehicle and one (1) service vehicle.*

(8) *There shall be at least four (4) lanes of vehicular access past a guardhouse, including two (2) lanes in and two (2) lanes out.*

(9) *Guardhouses shall be lighted so as to ensure safe vehicular and pedestrian passage.*

(10) *No gate or gate opening/locking mechanism may be permitted unless approved by South Metro Fire and Rescue District.*

(11) *Where a guardhouse is adjacent to a state highway, the City may refer the guardhouse site plan to the Colorado Department of Transportation for review and comment, which comments may be incorporated into any conditions for approval of the guardhouse conditional use permit.*

(12) *In addition to showing the guardhouse, site plans for guardhouses shall show the area for parking and gate structures and shall include dimensions of both.*

(13) *The homeowners' association documents, including, but not limited to, the applicable covenants, conditions and restrictions ("covenants") shall provide, or shall be amended to provide, adequate maintenance and operation of the guardhouse in a form acceptable to the City. The covenants shall state that the City shall have the right, but not the obligation, to enforce the guardhouse maintenance and operation provisions.*

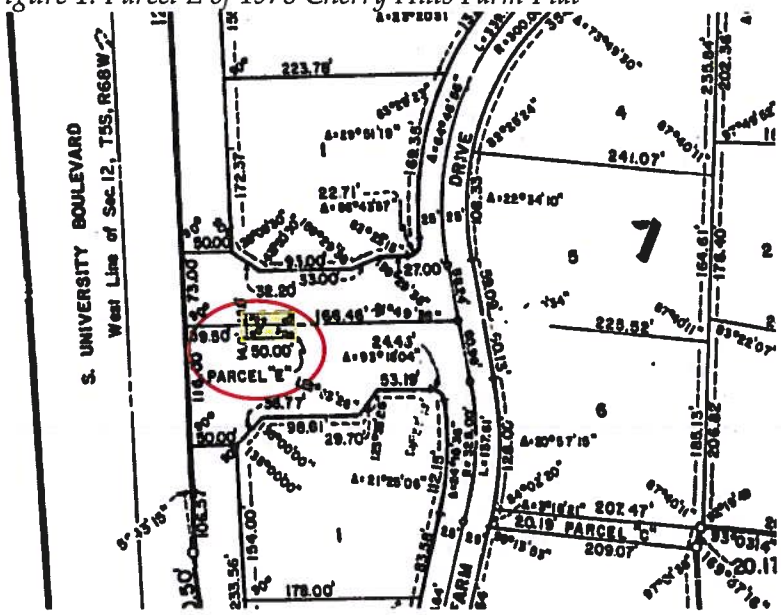
The Conditional Use review process for guardhouses was adopted on June 15, 1999 as Ordinance 7, Series 1999. The City adopted the ordinance in reaction to a request by the developer of the Buell Mansion Subdivision to allow a guardhouse for the E. Hampden Avenue

entrance to the subdivision (see Exhibits D, E, F and G for Ordinance 7, Series 1999 and City Council meeting minutes from November 17, 1998, June 9, 1999, and June 15, 1999 respectively). Prior to the adoption of this ordinance, guardhouses were not listed as an allowed use in any of the City's zone districts. The review process included a restriction that guardhouses only be allowed on separate tracts of land surrounded by or adjacent to a private street.

Since adoption of the Conditional Use Permit for guardhouse, permits have been approved for the Buell Mansion subdivision in 1999 and for Cherry Hills Park subdivision in 2004. The only other guard house in the City is for Glenmoor Subdivision, which was approved by the City's Board of Adjustment and Appeals as a Special Exception in the F-1 Zone District as part of the overall development plan for the Glenmoor Country Club. (The Board of Adjustment and Appeals Special Exception review process has since been replaced with the City's current Expanded Use Permit review process.)

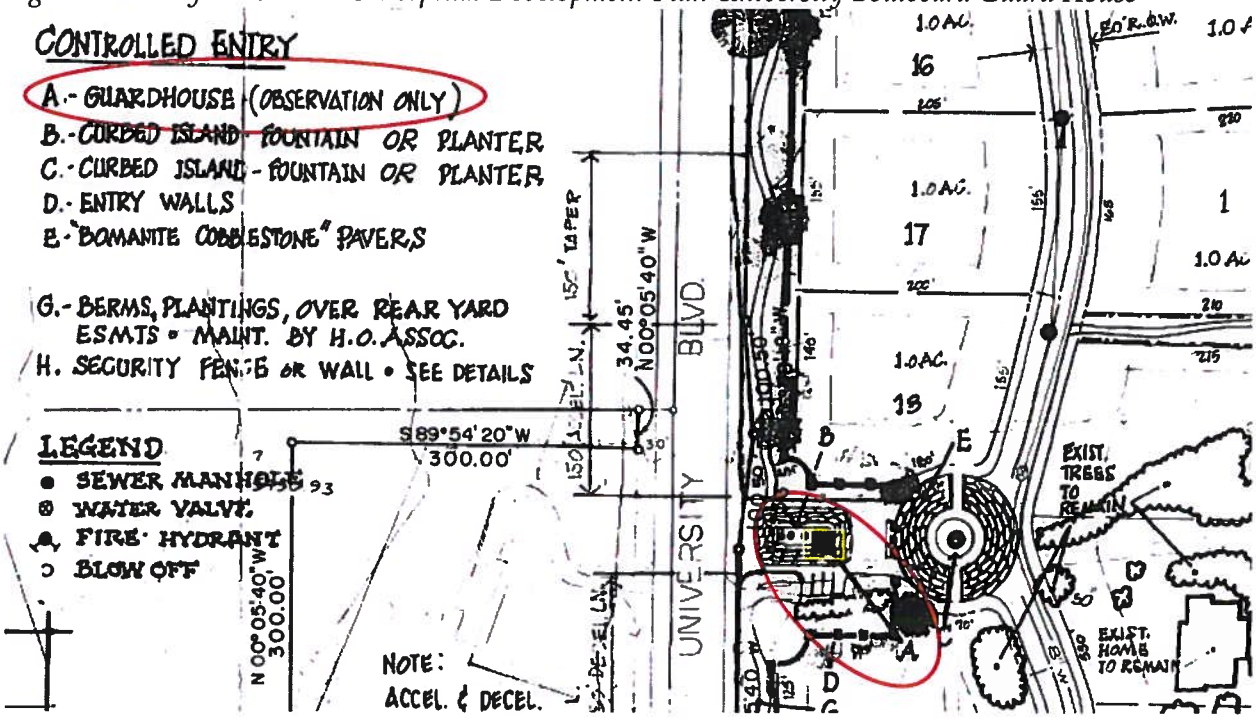
Cherry Hills Farm Subdivision:
The Cherry Hills Farm Subdivision was approved by the City in 1978. The Subdivision included a separate tract of land platted and dedicated to the HOA for the purpose of installing a guard house. The tract was designated as Parcel E (see Figure 1 below).

Figure 1: Parcel E of 1978 Cherry Hills Farm Plat



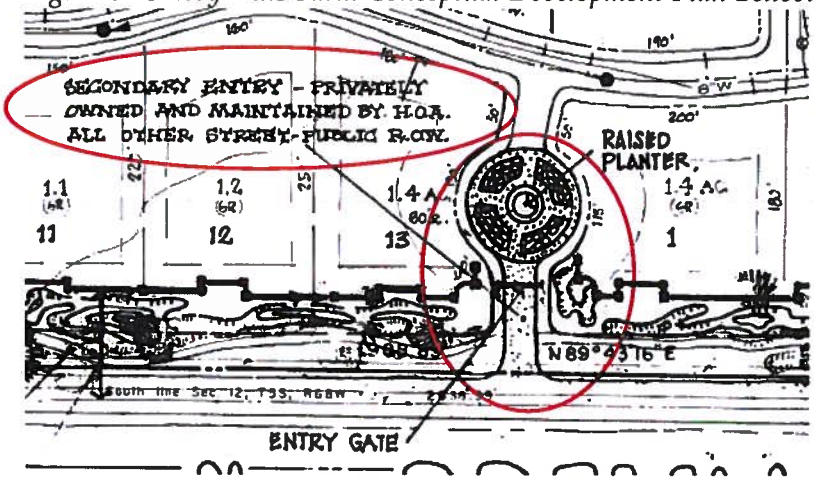
The Conceptual Development Plan submitted with the 1978 subdivision application included a guard house for "observation only" located within Parcel E (see Figure 2 below for Conceptual Plan guard house location). The restriction for "observation only" appears to recognize that the streets would be open to the public without restriction.

Figure 2: Cherry Hills Farm Conceptual Development Plan University Boulevard Guard House



The Subdivision includes a secondary entrance on East Belleview Avenue. This entrance has an automated gate access (without a guard house) and is located on a private road tract that was dedicated to the HOA (see Figure 3).

Figure 3: Cherry Hills Farm Conceptual Development Plan Belleview Avenue Gate



In 1985, the developer and residents of the Subdivision approached the City Council to request approval of a guard house and restricted access. After considering several options to allow restricted access, the City Council appears to have determined that the best option was for the street to be vacated and ownership taken over by the Cherry Hills Farm Metropolitan District.

For this to occur, unanimous support from the residents of the subdivision was needed. There was one resident who ultimately would not agree to vacating the streets and the construction of the guard house (see Exhibits H, I and J for an August 2, 1985 Memorandum from staff to the City Council and minutes from the May 21, 1985 and August 6, 1985 City Council meetings respectively).

ANALYSIS:

If the proposed amendments are adopted, the HOA will still be required to apply for a Conditional Use Permit that would be reviewed by the Planning and Zoning Commission and City Council. This would include reviewing the design and layout of the guard house and could include reasonable conditions on the use of the use. Staff has provided the following pros and cons that may be considered for this proposal:

Pros:

- Allowing a guard house that does not restrict access to the subdivision would implement what appears to be the original intent of the subdivision.
- The guard house would provide a safe and secure place out of the weather for the patrol service employed by the HOA, who currently spends most of their time in a patrol vehicle parked at the entrance when not patrolling the Subdivision.
- The guard house could improve the safety and security for residents in the Subdivision and provide a place to house security cameras and monitoring equipment.
- Staff does not believe there are any other existing subdivisions with platted tracts for guard houses with access to public roads. Therefore, if the amendment is passed, this would likely be the only guard house constructed for public roads.

Cons:

- The guard house could give the impression of a gated and restricted community and the general public would not feel welcome on the public roads.
- Vehicles entering the Subdivision may feel compelled to stop at the guard house and check in even though they would not be legally obligated to do so.
- Guard houses and the appearance of restricted access subdivisions could be considered inconsistent with the Master Plan Vision statement that the Village is defined by having a semi-rural character with an open feel.

RECOMMENDATIONS:

Planning and Zoning Commission:

The Planning and Zoning Commission reviewed the proposed code amendments on January 13, 2015 and recommended approval as drafted (see Exhibit K for draft minutes).

Staff:

Staff recommends approval of Council Bill 1, Series 2015 as drafted.

RECOMMENDED MOTION:

"I move to approve Council Bill 1, Series 2015 on first reading, amending Sections 16-1-10 and 16-18-20 of the Municipal Code concerning guard houses, as submitted in Exhibit A to the February 3, 2015 staff memorandum."

ATTACHMENTS:

Exhibit A: Council Bill 1, Series 2015
Exhibit B: November 25, 2014 Request Letter
Exhibit C: Zoning Ordinance Article XVIII
Exhibit D: Ordinance 7, Series 1999
Exhibit E: November 17, 1998 City Council Minutes
Exhibit F: June 9, 1999 City Council Minutes
Exhibit G: June 15, 1999 City Council Minutes
Exhibit H: August 2, 1985 Staff Memorandum
Exhibit I: May 21, 1985 City Council Minutes
Exhibit J: August 6, 1985 City Council Minutes
Exhibit K: Draft January 13, 2015 Planning and Zoning Commission Minutes

EXHIBIT A

COUNCIL BILL NO. 1
SERIES OF 2015

INTRODUCED BY: _____
SECONDED BY: _____

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING SECTIONS 16-1-10 AND 16-18-20 OF THE CHERRY HILLS VILLAGE
MUNICIPAL CODE CONCERNING
GUARDHOUSES**

WHEREAS, the City of Cherry Hills Village ("City") is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City has authority to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

WHEREAS, the City has adopted zoning regulations codified in Chapter 16 of the Municipal Code that, in relevant part, establish conditional use requirements for guardhouses, including a restriction that they are used exclusively for the monitoring of private streets and must be located within or adjacent to private streets; and

WHEREAS, the City Council has determined that a guardhouse may be approved as a conditional use on privately owned tracts within or adjacent to public streets as long as the guardhouse is not used to restrict public access in any way to the public streets within the subdivision and meets all other requirements for a conditional use permit.

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

Section 1. Section 16-1-10 of the Cherry Hills Village Municipal Code, entitled "Definitions," is hereby amended to read as follows, with deletions shown in strikethrough and additions shown in underline:

Sec. 16-1-10: Definitions.

> *Guardhouse* means a structure and associated parking area and gates owned by a homeowners' association, or by the respective owners of separate lots or other parcels of land in some form of lawful joint ownership, in a subdivision or area within the City's boundaries, for the benefit of that subdivision or area's residents, which is used for the exclusive purpose of monitoring access to ~~private streets~~ <u>that subdivision or area</u>. A guardhouse is not a private club.

Section 2. Section 16-18-20 of the Cherry Hills Village Municipal Code, entitled "Requirements and conditions for specific uses," is hereby amended to repeal subparagraph (a)(5) to read as follows, with deletions shown in strikethrough:

Sec. 16-18-20. Requirements and conditions for specific uses.

(a) Guardhouses. In addition to meeting all other requirements of this Article, guardhouses are permitted in the R-1, R-2, R-3, R-4, R-5 and R-3A Zone Districts, subject to the following:

~~(5) All guardhouse tracts shall be located within and entirely surrounded by a private street, or adjacent to a private street. For purposes of this Paragraph, adjacent means having at least twenty five percent (25%) of the perimeter coincident with the edge of one (1) or more private streets.~~

Section 3. 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. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid.

Section 4. Codification Amendments. The codifier of the City's Municipal Code, Colorado Code Publishing Company, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Cherry Hills Village Municipal Code

Section 5. Effective Date. This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 1, Series 2015, by the City Council of the City of Cherry Hills Village, Colorado this _____ day of _____, 2015.

_____
Laura Christman, Mayor

ATTEST:

_____

APPROVED AS TO FORM:

_____

Laura Smith, City Clerk

Linda C. Michow, City Attorney

Published in *The Villager*
Published:_____
Legal #:_____

EXHIBIT B

November 25, 2014

Rob Zuccaro
Community Development Director
City of Cherry Hills Village
2450 East Quincy Avenue
Cherry Hills Village, CO 80113

rzuccaro@cherryhillsvillage.com

Re: Cherry Hills Farm Homeowner's Association, Guardhouse Code Change Request

Dear Mr. Zuccaro:

Thank you for the opportunity to visit with you regarding a question concerning the definition of "Guardhouse" found in the Cherry Hills Village Municipal Code (Sec. 16-1-10). As we discussed, Cherry Hills Farm is exploring the possibility of constructing a guardhouse at the University Blvd. entrance to the property, in the location originally platted as a guardhouse parcel and owned by the Association. The Association's intent is to have a safe and secure place for our patrol services officers to be protected from inclement weather and serve as a comfort station. We will still have our patrol driving the community, but with the installation of such a structure, the guard will no longer have to sit in a running car all day long, polluting the atmosphere. We would also be able to house our expanded monitoring equipment for our security cameras and system in this guardhouse, providing enhanced safety and security for our Village residents.

The Association has no intention of making the interior streets within Cherry Hills Farm private, nor would there be any public access restricted to the community due to the addition or use of this facility. No gates would be installed.

As you noted in our discussions regarding this matter, the Code language currently states that a Guardhouse is "used for the exclusive purpose of monitoring access to private streets."

Cherry Hills Farm Homeowner's Association would like to make a formal request to the City to adopt a small amendment to the definition of "Guardhouse" in the Code. Specifically, to delete the phrase "private streets" and to substitute the phrase "that subdivision or area."

Code Section 16-1-10 as amended by this proposal would then read as follows:

"Guardhouse means a structure and associated parking area and gates owned by a homeowners' association, or by the respective owners of separate lots or other parcels of land in some form of lawful joint ownership, in a subdivision or area within the City's boundaries, for the benefit of that subdivision or area's residents, which is used for the exclusive purpose of monitoring access to ~~private streets~~ *that subdivision or area.* A guardhouse is not a private club."

We really appreciate your consideration of this enhancement for our community and for other similarly-situated subdivisions and areas with the Village (Cherry Hills Farms West, Devonshire and Country Homes come to mind).

Please contact me with any questions or concerns at 303-369-1800 ext 115 or via email to Janelle@westwindmanagement.com.

Sincerely,
For the Board of Directors

Janelle Maninger

Janelle Maninger, CMCA®, AMS®
Association Business Manager

EXHIBIT C

ARTICLE XVIII - Conditional Uses

Sec. 16-18-10. - Legislative purpose.

The City Council hereby declares that certain uses of land designated as conditional uses within any zone district may be authorized by City Council subject to compliance with the standards and review and approval procedures set forth in this Article. Such uses may exist within the corporate limits of the City only upon application to and review by the Planning and Zoning Commission and approved by the City Council based on findings by the Planning and Zoning Commission and City Council that:

(1) The proposed use is specified as an authorized conditional use within the applicable zone district.

(2) The proposed use, at the size and intensity contemplated and at the proposed location, is necessary for the neighborhood immediately benefited by the proposed use and compatible with the surrounding community.

(3) The use proposed will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or to property, improvements or potential development in the vicinity of the proposed use. This determination may, without limitation, be based on:

a. The nature of the proposed site, including its size, shape and topography and the proposed size, location and arrangement of structures;

b. The accessibility and patterns of pedestrian and vehicular traffic, including the type and volume of such traffic, location of points of ingress and egress and the adequacy of off-street parking and loading, where applicable;

c. The degree of conformity with the requirements and conditions listed in Sections 16-18-20 and 16-18-30 below, as applicable; and

d. The provisions for landscaping, screening, unobstructed open space, service areas, lighting and signage.

(4) The proposed use will comply with the applicable zoning district regulations and all other applicable provisions of this Chapter and of this Code, and will not be inconsistent with the Master Plan.

(5) Where an applicant for a proposed conditional use also requests a variance to a standard imposed by this Chapter, the City Council may grant such variance as part of the approval of the conditional use upon a finding that all criteria for approval of a variance are met as set forth by Section 16-3-50

(Prior code 6-17-1; Ord. 7, 1999; Ord. 9 §1, 2003; Ord. 11 §1, 2003)

Sec. 16-18-20. - Requirements and conditions for specific uses.

(a) Guardhouses. In addition to meeting all other requirements of this Article, guardhouses are permitted in the R-1, R-2, R-3, R-4, R-5 and R-3A Zone Districts, subject to the following:

(1) Provisions of this Chapter prescribing lot area minimums shall not apply to guardhouse tracts.

(2) Provisions of this Chapter permitting accessory structures and prescribing lot and yard width minimums shall not apply to guardhouses.

(3) No use or structure shall be considered accessory to a commonly owned private facility use. No use or structure shall be permitted as an accessory use or structure on a guardhouse tract.

(4) A guardhouse may only be permitted on guardhouse tracts.

(5) All guardhouse tracts shall be located within and entirely surrounded by a private street, or adjacent to a private street. For purposes of this Paragraph, *adjacent* means having at least twenty-five percent (25%) of the perimeter coincident with the edge of one (1) or more private streets.

(6) Unless contained entirely within and surrounded by a private street, all guardhouse tracts shall be separately subdivided parcels.

(7) All guardhouse tracts shall be adequate in area to allow for simultaneous parking of one (1) employee vehicle and one (1) service vehicle.

(8) There shall be at least four (4) lanes of vehicular access past a guardhouse, including two (2) lanes in and two (2) lanes out.

(9) Guardhouses shall be lighted so as to ensure safe vehicular and pedestrian passage.

(10) No gate or gate opening/locking mechanism may be permitted unless approved by South Metro Fire and Rescue District.

(11) Where a guardhouse is adjacent to a state highway, the City may refer the guardhouse site plan to the Colorado Department of Transportation for review and comment, which comments may be incorporated into any conditions for approval of the guardhouse conditional use permit.

(12) In addition to showing the guardhouse, site plans for guardhouses shall show the area for parking and gate structures and shall include dimensions of both.

(13) The homeowners' association documents, including, but not limited to, the applicable covenants, conditions and restrictions ("covenants") shall provide, or shall be amended to provide, adequate maintenance and operation of the guardhouse in a form acceptable to the City. The covenants shall state that the City shall have the right, but not the obligation, to enforce the guardhouse maintenance and operation provisions.

(b) Retail uses. In addition to meeting all other requirements of this Article, retail uses are permitted in the C-2 Zone District, subject to the following:

(1) Landscaping, consisting of grass, trees, shrubs and other appropriate landscaping materials comparable and compatible with surrounding retail and commercial properties shall be provided and continuously maintained in the vicinity of each retail use.

(2) The signage requirements found in Subsection 16-15-30 above shall apply.

(3) The off-street parking requirements found in Section 16-16-10 above shall apply.

(Prior code 6-17-2; Ord. 7, 1999; Ord. 1 §3, 2002; Ord. 9 §1, 2003)

(c) Wireless communication facilities. In addition to meeting all other requirements of this Article, wireless communication facilities must meet the requirements of Section 16-16-130 of this Chapter

(d) Satellite dish antennas. In addition to meeting all other requirements of this Article, satellite dish

antennas must meet the requirements of Section 16-16-150 of this Chapter.

(Prior code 6-17-2; Ord. 7, 1999; Ord. 1 §3, 2002; Ord. 9 §1, 2003; Ord. 08 §12, 2007; Ord. 19 §13, 2010)

Sec. 16-18-30. - Requirements and conditions for all conditional uses.

(a) Permit required. Except as hereinafter provided, no conditional use shall be constructed, reconstructed, enlarged, relocated or otherwise established within the corporate limits of the City without a conditional use permit issued in accordance with the requirements of this Article.

(b) Conditional uses. Conditional uses shall, to the maximum extent possible, be located, designed, constructed and operated to minimize impacts upon any adjacent property and land use.

(c) Planning and Zoning Commission. All applicable requirements of this Code shall be met and are deemed the minimum required. The Planning and Zoning Commission shall impose such other conditions and limitations as it, in its sole discretion, may determine to be necessary to fulfill the purpose and intent of this Article as stated in Section 16-18-10 above.

(d) Termination. Any one (1) of the following shall terminate the right to operate a conditional use:

(1) Failure to initiate operation of the conditional use within twelve (12) months from the date approved by the City Council. Upon request of the applicant, and for good cause shown, the City Manager may grant a six-month extension of the approved conditional use, but shall not grant more than two (2) such extensions.

(2) Changing to a use permitted by right in the governing zone district.

(3) Discontinuance of the conditional use for a period of at least twelve (12) months, except for wireless communication facilities, which are governed by Subsection 16-16-130(g) of this Chapter.

(4) Violation of, or failure to comply with, the terms and conditions of the approved conditional use permit after reasonable notice to comply has been given by the City. In addition, the penalties and remedies of Section 1-4-20 of this Code may be applied.

(e) Approved plan. Unless a phased development plan is approved with the application, once any portion of the conditional use is utilized, all specifications and conditions pertaining to the conditional use become immediately effective.

(f) Reinstatement process: The process for reinstatement of any conditional use that has been terminated under the terms of Subsection (d) above shall be the same as for original approval.

(Prior code 6-17-3; Ord. 7, 1999; Ord. 9 §1, 2003; Ord. 08 §13, 2007)

Sec. 16-18-40. - Procedures.

All applications for conditional use permits are subject to the procedures set forth in Sections 16-18-50 and 16-18-60 below.

(Prior code 6-17-4; Ord. 9 §1, 2003)

Sec. 16-18-50. - Application procedures.

The official application form for a conditional use permit shall be provided by the Community Development Department which shall generally contain the requirements specified below and elsewhere in this Chapter. Actual requirements will be dependent upon the type and nature of the conditional use being requested. An application for a conditional use permit is separate and distinct

from any requirement to file an application for a rezoning or a subdivision plat as may be required elsewhere in this Code. An applicant for a conditional use permit may, however, include with the application for conditional use an application for a variance to be considered by the Planning Commission and the City Council together with the conditional use permit application. General application requirements shall include:

(1) Supplemental information. The conditional use permit application shall also include the existing land use and a written description of the proposed use detailing the nature of the proposed structure, including its function and, where appropriate, hours of operation and traffic generation. Other requirements as specified in the official application form shall be provided to enable thorough and accurate analysis of the request.

(2) Fees. Persons applying for a conditional use permit shall pay for planning and engineering review services and other consultant fees, including, without limitation, legal fees and other direct expenses incurred on behalf of the City and made necessary as a result of said application. The applicant shall pay an initial fee of five hundred dollars ($500.00) and make an initial deposit of three thousand dollars ($3,000.00) into a non-interest-bearing escrow account held by the City at the time the application is filed with the City. The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees and other direct expenses incurred with regard to said application. Any balances remaining in the escrow account at the conclusion of said application, such as approval, denial or withdrawal, shall be returned to the applicant without interest. In the event said funds are exhausted before completion of said application, the applicant will make a supplemental deposit to said escrow account in an amount determined by the City Manager. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made.

(3) Site plan. In addition to the official permit application form, the applicant shall submit a site plan. The site plan shall show all contiguous real property ownership or interests of the applicant. For purposes of this Section, public rights-of-way shall not be considered to interrupt this requirement. A site plan shall include, at a minimum:

a. An area map showing existing ownership of the subject property and all abutting property; and showing existing zoning and land use of the subject property and all property lying within five hundred (500) feet;

b. Historic, existing and proposed contours expressed in one-foot increments based upon the USGS datum;

c. Location of existing improvements, within one-tenth (0.1) foot of actual location;

d. Location of proposed improvements;

e. Location of existing and proposed streets and City rights-of-way within one-tenth (0.1) foot of actual location;

f. Location of existing easements of record within one-tenth (0.1) foot of actual location;

g. Adjacent lots;

h. Professional land surveyor stamp;

i. Landscaping; and

j. Parking.

(4) Architectural drawings. Typical elevation drawings of each structure included within the site, showing: the architectural style; the general dimensions and gross floor area of each; the specifications of all exterior building materials to be used on each structure, including types of siding and roofing materials and their textures and color; and the location of all mechanical equipment and an indication as to how such equipment will be screened from adjacent properties.

(5) Materials required to accompany permit application. If no subdivision of the proposed development site is required, and if it is determined by the City Manager to be in the best interest of the City, one (1) or more of the following may be required:

a. A soils report.

b. An agreement between the applicant and the City that provides the City with whatever it deems necessary to assure that the proposed facility will be constructed as proposed and that the future operation and maintenance of the facility is properly provided for both as to management and funding. Such agreement may require approval of covenants, escrow deposits, performance and payment bonds or any other method of assurance required by the City.

c. Any other information pertinent to the application that addresses issues raised during the review process, or which the applicant feels is necessary.

(6) For wireless communication facilities, any of the information required in Subsection 16-16-130(c), (d) or (f) of this Chapter, as applicable.

(7) Additional material required. Additional written and graphic materials may be required by the City Manager to accurately establish conformity of an application with the intent and standards of this Article, other applicable provisions of this Code and the Master Plan.

(8) Where an applicant for a proposed conditional use permit also requests a variance to a standard imposed by this Chapter, the applicant shall include with the application all information and materials identified in Section 16-3-70 sufficient to permit the Planning and Zoning Commission and the City Council to review the request for a variance for conformance with the criteria of Section 16-3-50 of this Chapter.

(Prior code 6-17-4; Ord. 7, 1999; Ord. 9 §1, 2003; Ord. 11 §2, 2003; Ord. 7 §24, 2004; Ord. 08 §14, 2007; Ord. 15 §4, 2010)

Sec. 16-18-60. - Review procedures.

Applications for conditional use permits shall be subject to the following review and approval procedures:

(1) Planning and Zoning Commission review procedure.

a. Upon receipt of a complete permit application, fee and escrow deposit and after determining that no further information is necessary, the City Manager shall refer the application for conditional use to the Planning and Zoning Commission, by setting the same on the next available Planning and Zoning Commission agenda. The Planning and

Zoning Commission shall hold a public hearing preceded by public notice thereof as provided in Subsection 16-2-40(c) above.

b. The Planning and Zoning Commission shall determine whether the application meets the statement of legislative purpose set forth in Section 16-18-10 above and is based on the evidence and testimony presented at the public hearing. The Planning and Zoning Commission may recommend approval, approval with conditions or denial of the application. The Planning and Zoning Commission may table the matter to a date certain pending the provision of further information.

c. The Planning and Zoning Commission may recommend conditions other than the minimum requirements and conditions established in Sections 16-18-20 and 16-18-30 above and deemed reasonably essential for the health, safety and general welfare of the public.

d. The Planning and Zoning Commission shall consider applications for wireless communication facilities in accordance with the criteria set forth in Section 16-16-130 of this Chapter, and may make any recommendations for approval, approval with conditions or denial, consistent with that Section and applicable law.

e. The Planning and Zoning Commission shall have the authority to hear and make recommendation to the City Council regarding any requests for variances to this Chapter brought in conjunction with the application process outlined in this Article. In hearing such requests, the Planning and Zoning Commission will utilize the criteria contained in Paragraphs 16-3-50(b)(1) through (9) of this Chapter.

(2) City Council review procedure.

a. The application for a conditional use permit along with the Planning and Zoning Commission's recommendation are considered by the City Council at a public hearing. Notice shall be given of the public hearing pursuant to the requirements of Subsection 16-2-40(c) above.

b. The City Council shall determine if the application meets the statement of legislative purpose set forth in Section 16-18-10 above based on the evidence and testimony presented at the public hearing. The City Council may recommend approval, approval with conditions or denial of the application. The City Council may table the matter to a date certain pending the provision of further information.

c. The City Council may require conditions other than the minimum requirements and conditions established in Sections 16-18-20 and 16-18-30 above and deemed reasonably essential for the health, safety and general welfare of the public.

d. The City Council shall determine whether applications for wireless communication facilities meet the criteria set forth in Section 16-16-130 of this Chapter, and may approve, approve with conditions or deny any application, consistent with that Section and applicable law.

e. The City Council shall have the authority to hear and decide any requests for variances to this Chapter brought in conjunction with the application process outlined in this Article. In hearing such requests, the City Council will utilize the criteria contained in Paragraphs 16-

3-50(b)(1) through (9) of this Chapter. A majority vote of a quorum of the City Council present and voting shall be required to approve any variance brought in conjunction with the application process outlined in this Article.

(Prior code 6-17-4; Ord. 7, 1999; Ord. 9 §1, 2003; Ord. 11 §3, 2003; Ord. 08 §15, 2007)

Sec. 16-18-70. - Amendments.

(a) The procedure for amending any approved conditional use permit shall be the same as prescribed for original approval. No amendment approved by the City Council after consideration and recommendation from the Planning and Zoning Commission shall violate the conditions, requirements or limitations set forth in this Code. Provided that the applicable conditions of Subsection (b) below are met, the City Manager may approve administrative amendments for the following specified changes: relocation of structures, parking and open spaces, but not including any variation from the maximum or minimum standards for each established by the approved conditional use permit.

(b) The City Manager may approve a request for an administrative amendment to an approved conditional use, which does not contain any of the following:

(1) A change to any specific conditions attached to the original permit, or to any subsequent amendment thereto, approved by the Planning and Zoning Commission;

(2) A change in the approved use;

(3) An increase in the approved gross floor area greater than five percent (5%) above the amount approved in the application by the City Council after consideration and recommendation from the Planning and Zoning Commission;

(4) An increase in the structure/building height;

(5) An increase in the approved access to public streets;

(6) A reduction of required private and/or public open space;

(7) A reduction of required off-street parking and loading space;

(8) A reduction of required landscaping and/or screening requirements; or

(9) A change to any variance approved for the property.

(Prior code 6-17-5; Ord. 7, 1999; Ord. 1, 2002; Ord. 9 §1, 2003; Ord. 11 §4, 2003)

ORDINANCE NO. 7

SERIES 1999

June 9, 1999: Introduced as Council Bill No. 7, Series of 1999, by Dixon Shay, seconded by Jan Steiert, and considered by title only on first reading. Passed unanimously.

June 15, 1999: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 7, Series 1999.

AN ORDINANCE AMENDING TITLE 6 AND TITLE 7 OF THE CITY CODE TO DEFINE GUARDHOUSES; MODIFYING CERTAIN ZONE DISTRICT PROVISIONS TO ALLOW GUARDHOUSES AS A CONDITIONAL USE THEREIN; AND SETTING FORTH A CONDITIONAL USE REVIEW PROCEDURE

WHEREAS, from time to time, subdivision developers and other land owners desire to make use of land for the principal purpose of constructing and housing a guardhouse that will be owned in common by the homeowners or homeowners' associations on parcels of commonly-held land; and

WHEREAS, pursuant to Title 6 of the Municipal Code, a guardhouse, as either a principal or accessory use, is currently not authorized in the City of Cherry Hills Village; and

WHEREAS, said parcels of commonly-held land are often tracts that measure less than the prescribed lot area minimum in the zone districts in which the developers or owners desire to establish the guardhouse uses; and

WHEREAS, the City Council desires to provide for review and approval of conditional use permits for guardhouses in the City's residentially zoned areas; and

WHEREAS, the City Council desires to establish review and approval procedures generally applicable to conditional uses and conditional use permits within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. City Code § 6-1-1 is hereby amended by adding the following new definitions:

GUARDHOUSE: A structure and associated parking area and gates owned by a homeowners association, or by the respective owners of separate lots, or other parcels of land in some form of lawful joint ownership, in a subdivision or area within the City's boundaries, for the benefit of that subdivision or area's residents, which is used for the exclusive purpose of monitoring access to private streets. A guardhouse is not a private club.

PRIVATE CLUB: A building operated for the benefit of the members and not for profit and not open to the general public. A private club is not a guardhouse.

TRACT, GUARDHOUSE: A piece, plot or parcel of land established by a survey, plat or deed, held in common ownership, on which is located a guardhouse.

Section 2. City Code Chapter 5, Title 6 is hereby amended by adding the following new section:

6—5—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 3. City Code Chapter 6, Title 6 is hereby amended by adding the following new section:

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6—6—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 4. City Code Chapter 7, Title 6 is hereby amended by adding the following new section:

6—7—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 5. City Code Chapter 8, Title 6 is hereby amended by adding the following new section:

6—8—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 6. City Code Chapter 9, Title 6 is hereby amended by adding the following new section:

6—9—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 7. City Code Chapter 11, Title 6 is hereby amended by adding the following new section:

6—11—1.1: **CONDITIONAL USES:**

A. Guardhouse

Section 8. Title 6 of the City Code is hereby amended by adding the following new Chapter 17 to read as follows:

CHAPTER 17
CONDITIONAL USES

SECTION:

6-17-1 Legislative Purpose
6-17-2 Requirements and Conditions for Specific Uses
6-17-3 Requirements and Conditions for All Conditional Uses
6-17-4 Procedures
6-17-5 Amendments

6-17-1: **LEGISLATIVE PURPOSE:** The Council does hereby declare that certain uses of land designated as conditional uses within any zone district may be authorized by City Council subject to compliance with the standards and review and approval procedures set forth in this Chapter 17. Such uses may exist within the corporate limits of Cherry Hills Village only upon application to and review by the Planning Commission and approved by the City Council based on findings by the Commission and Council that:

A. The proposed use is specified as an authorized conditional use within the applicable zone district.

B. The proposed use, at the size and intensity contemplated and at the proposed location, is necessary for the neighborhood immediately benefited by the proposed use and compatible with the surrounding community.

C. The use proposed will not be detrimental to the health, safety, general welfare of persons residing or working in the vicinity, or to property, improvements or potential development in the vicinity of the proposed use. This determination may without limitation, be based on:

1. The nature of the proposed site, including its size, shape and topography and the proposed size, location and arrangement of structures;

2. The accessibility and patterns of pedestrian and vehicular traffic, including the type and volume of such traffic, location of points of ingress and egress, and the adequacy of off-street parking and loading, where applicable;

3. The degree of conformity with the requirements and conditions listed in Sections 6-17-2 and 6-17-3, as applicable; and

4. The provisions for landscaping, screening, unobstructed open space, service areas, lighting and signage.

D. The proposed use will comply with the applicable zoning district regulations and all other applicable provisions this Title and of the Code, and will not be inconsistent with the Master Plan.

6-17-2: **REQUIREMENTS AND CONDITIONS FOR SPECIFIC USES:**

A. GUARDHOUSES: In addition to meeting all other requirements of this Chapter 17, guardhouses are permitted in the R-1, R-2, R-3, R-4, R-5, and R-3A zone districts, subject to the following:

1. Provisions of this Title 6 prescribing lot area minimums shall not apply to guardhouse tracts.

2. Provisions of this Title 6 permitting accessory structures, and prescribing lot and yard width minimums shall not apply to guardhouses.

3. No use or structure shall be considered accessory to a commonly owned private facility use. No use or structure shall be permitted as an accessory use or structure on a guardhouse tract.

4. A guardhouse may only be permitted on guardhouse tracts.

5. All guardhouse tracts shall be located within and entirely surrounded by a private street, or adjacent to a private street. For purposes of this subsection, adjacent means having at least 25% of the perimeter coincident with the edge of one or more private streets.

6. Unless contained entirely within and surrounded by a private street, all guardhouse tracts shall be separately subdivided parcels.

7. All guardhouse tracts shall be adequate in area to allow for simultaneous parking of one employee vehicle and one service vehicle.

8. There shall be at least four lanes of vehicular access past a guardhouse, including two lanes in and two lanes out.

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9. Guardhouses shall be lighted so as to insure safe vehicular and pedestrian passage.

10. No gate or gate opening/locking mechanism may be permitted unless South Metro Fire and rescue District approves it.

11. Where a guardhouse is adjacent to State Highway, the City may refer the guardhouse site plan to the Colorado Department of Transportation for review and comment, which comments may be incorporated into any conditions for approval of the guardhouse conditional use permit.

12. In addition to showing the guardhouse, site plans for guardhouses shall show the area for parking and gate structures and shall include dimensions of both.

13. The homeowners association documents, including but not limited to the applicable covenants, conditions and restrictions ("covenants") shall provide, or shall be amended to provide, adequate maintenance and operation of the guardhouse in a form acceptable to the City. The covenants shall state that the City shall have the right, but not the obligation to enforce the guardhouse maintenance and operation provisions.

6-17-3: **REQUIREMENTS AND CONDITIONS FOR ALL CONDITIONAL USES:**

A. Except as hereinafter provided, no Conditional Use shall be constructed, reconstructed, enlarged, relocated or otherwise established within the corporate limits of the City without a conditional use permit issued in accordance with the requirements of this Chapter 17.

B. Conditional Uses shall, to the maximum extent possible, belocated, designed, constructed and operated to minimize impacts upon any adjacent property and land use.

C. All applicable requirements of this Code shall be met and are deemed the minimum required. The Planning Commission shall impose such other conditions and limitations as they, in their sole discretion, may determine to be necessary to fulfill the purpose and intent of this Chapter as stated in Section 6-17-1.

D. Termination: Any one of the following shall terminate the right to operate a Conditional Use:

1. Failure to initiate operation of the Conditional Use within twelve (12) months from the date approved by the City Council. Upon request of the applicant, and for good cause shown, the City Manager or the Manager's designee may grant a six (6) month extension of the approved Conditional Use, but shall not grant more than two (2) such extensions.

2. Changing to a use permitted by right in the governing zone district;

3. Discontinuance of the Conditional Use for a period of at least twelve (12) months;

4. Violation of, or failure to comply with, the terms and conditions of the approved Conditional Use Permit after

reasonable notice to comply has been given by the City. In addition, the penalties and remedies of Sections 1-4-1 may be applied.

E. Unless a phased development plan is approved with the application, once any portion of the Conditional Use is utilized, all specifications and conditions pertaining to the Conditional Use become immediately effective.

F. The process for reinstatement of any Conditional Use that has been terminated under the terms of Section 6-17-3D shall be the same as for original approval.

6-17-4: **PROCEDURES:** All applications for conditional use permits are subject to the following procedures:

A. Application Procedures: The official applications form for a conditional use permit shall be provided by the Community Development Department which shall generally contain the requirements specified below and elsewhere in this Title. Actual requirements will be dependent upon the type and nature of the conditional use being requested. An application for a conditional use permit is separate and distinct from any requirement to file an application for a rezoning or a Subdivision Plat as may be required elsewhere in this Code. General application requirements shall include:

1. Supplemental Information: The conditional use permit application shall also include the existing land use, and a written description of the proposed use detailing the nature of the proposed structure including its function, and where appropriate, hours of operation and traffic generation. Other requirements as specified in the official application form shall be provided to enable thorough and accurate analysis of the request.

2. Fees: Persons applying for a conditional use permit shall pay for planning and engineering review services, and other consultant fees including without limitation, legal fees, and other direct expenses incurred on behalf of the City and made necessary as a result of said application. The applicant shall pay an initial fee of five hundred dollars ($500.00) and make an initial deposit into a non interest-bearing escrow account held by the Director of Finance at the time the application is filed with the City. The amount of this initial deposit shall be one thousand dollars ($1,000.00). The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees, and other direct expenses incurred with regard to said application. Any balances remaining in the escrow account at the conclusion of said application, such as approval, denial or withdrawal, shall be returned to the applicant without interest. In the event said funds are exhausted before completion of said application, the applicant will make a supplemental deposit to said escrow account in an amount determined by the City Manager. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made.

3. Site Plan: In addition to the official permit application form, the applicant shall submit a site plan. The site plan shall show all contiguous real property ownership or interests of the applicant. For purposes of this Section, public rights-of-way shall not be considered to interrupt this requirement. A site plan shall include, at a minimum:

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a. An area map showing existing ownership of the subject property and all abutting property; and showing existing zoning and land use on the subject property and all property lying within five hundred feet.

b. Historic, existing and proposed contours expressed in one foot (1.0') U.S.G.S. Datum;

c. Location of existing improvements, within one-tenth of one foot (0.1') of actual location;

d. Location of proposed improvements;

e. Location of existing and proposed streets and City rights-of-way within one-tenth of one foot (0.1') of actual location;

f. Location of existing easements of record within one-tenth of one foot (0.1') of actual location;

g. Adjacent lots;

h. Professional Land Surveyor stamp; and

i. Landscaping; and

j. Parking.

4. Architectural Drawings: Typical elevation drawings of each structure included within the site, showing: the architectural style; the general dimensions and gross floor area of each; the specifications of all exterior building materials to be used on each structure including types of siding and roofing materials, and their textures and color; and the location of all mechanical equipment and an indication as to how such equipment will be screened from adjacent properties.

5. Materials Required to Accompany Permit Application: If no subdivision of the proposed development site is required, and if it is determined by the City Manager or the Manager's designee to be in the best interest of the City, one or more of the following may be required:

a. A soils report;

b. An agreement between the applicant and the City that provides the City with whatever it deems necessary to assure that the proposed facility will be constructed as proposed, and the future operation and maintenance of the facility is properly provided for both as to management and funding. Such agreement may require approval of covenants, escrow deposits, performance and payment bonds or any other method of assurance required by the City.

c. Any other information pertinent to the application that addresses issues raised during the review process, or which the applicant feels is necessary.

6. Additional Material Required: Additional written and graphic materials may be required by the City Manager or the Manager's designee to accurately establish conformity of an application with the

intent and standards of this Chapter, other applicable provisions of this Code, and with the Master Plan.

B. Review Procedure: Applications for conditional use permits shall be subject to the following review and approval procedures:

1. Planning Commission Review Procedure:

a. Upon receipt of a complete permit application, fee and escrow deposit, and after determining that no further information is necessary, the City Manager shall refer the application for Conditional Use to the Planning Commission, by setting the same on the next available Planning Commission agenda. The Planning Commission shall hold a public hearing preceded by public notice thereof as provided in Section 6-2-4C.

b. The Planning Commission shall determine whether the application meets the statement of legislative purpose set forth in Section 6-17-1, and the based on the evidence and testimony presented at the public hearing. The Planning Commission may recommend approval of the application, approval with conditions, or denial of the application . The Planning Commission may table the matter to a date certain pending the provision of further information.

c. The Planning Commission may recommend conditions other than the minimum requirements and conditions established in Sections 6-17-2 and 16-17-3 and deemed reasonably essential for the health, safety and general welfare of the public.

2. City Council Review Procedure:

a. The Application for a conditional use permit along with the Planning Commission's recommendation are considered by the City Council at a public hearing. Notice shall be given of the public hearing pursuant to the requirements of Section 6-2-4C.

b. The City Council shall determine if the application meets the statement of legislative purpose set forth in Section 6-17-1 based on the evidence and testimony presented at the public hearing. The City Council may recommend approval of the application, approval with conditions, or denial of the application . The City Council may table the matter to a date certain pending the provision of further information.

c. The City Council may require conditions other than the minimum requirements and conditions established in Sections 6-17-2 and 16-17-3 and deemed reasonably essential for the health, safety and general welfare of the public.

6-17-5: AMENDMENTS:

A. The procedure for amending any approved conditional use permit shall be the same as prescribed for original approval. No amendment approved by the Planning Commission shall violate the conditions, requirements or limitations set forth in this Code. Provided the

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applicable conditions of Section 6-17-5(B) are met, City Manager or Manager's designee may approve administrative amendments for those changes specified below:

1. Relocation of structures, parking, and open spaces, but not including any variation from the maximum or minimum standards for each established by the approved conditional use permit; or

B. The City Manager or the Manager's designee may approve a request for an administrative amendment to an approved conditional use, which does not contain any of the following:

1. A change to any specific conditions attached to the original permit , or to any subsequent amendment thereto, approved by the Planning Commission;

2. A change in the approved use;

3. An increase in the approved gross floor area greater than five percent (5%) above the amount approved in the application by the Planning Commission;

4. An increase in the structure/building height;

5. An increase in the approved access to public streets;

6. A reduction of required private and/or public open space;

7. A reduction of required off-street parking and loading space; or

8. A reduction of required landscaping and/or screening requirements.

Section 9. City Code § 7-5-7 is hereby deleted in its entirety

Section 10. Should any section, clause, sentence or part of this ordinance be adjudged by any court to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof, other than the part so declared to be invalid, provided that the ordinance resulting from such invalidation is consistent with the City Council's original legislative intent.

Adopted as Ordinance No. 7 Series 1999, by the City Council of the City of Cherry Hills Village, Colorado, and signed and approved by its Mayor and Presiding Officer this 15TH day of June, 1999.

John F. Welborn, Mayor

ATTEST:

MaryLou Taylor, City Clerk

CHERRY HILLS VILLAGE CORPORATE SEAL COLORADO

APPROVED AS TO FORM:

Erin M. Smith, City Attorney

CB 3-98, A Bill for an Ordinance Amending Title 6 and Title 7 to Define Guardhouses; to Allow Guardhouses as a Conditional Use; and to Set Forth a Conditional Use Review Process (First Reading)

Mr. Gelston informed Council that this ordinance addresses a request by the developers of the Buell Mansion Subdivision to construct a guardhouse at the entrance to the subdivision. He stated that the scope of the ordinance only addresses the guardhouse request but could be expanded to include other uses in the definition of conditional uses.

Ms. Smith stated that the ordinance spells out that the guardhouse tract must be located within and entirely surrounded by private streets.

Mayor Pro Tem Lahana asked Ms. Smith to clarify what is allowed if the bill is passed and what is allowed if the bill is not passed.

Ms. Smith stated that if the ordinance is not passed then guardhouses are not allowed anywhere in the City. She said if the ordinance is passed, then, on a case-by-case basis, Council could decide whether or not a guardhouse can be allowed in every residential district.

Mr. Howard Witkin, developer of the Buell Mansion Subdivision, stated that there are two issues why the developer would like to see this ordinance passed. The first issue is safety. He said that providing a gate house would provide a means for getting out of the weather and to protect the security personnel who are on duty.

Mr. Witkin commented that they do not use the term guardhouse because the Buell Mansion Subdivision is not a totally secured community. He said that they prefer to use the term "gatehouse". He stated that people would stop at the gatehouse for information and directions.

Mr. Witkin stated that the second issue is that the gatehouse would be an asset for their community and they intend to spend approximately $100,000.00 on the gatehouse.

Councilmember Steiert asked what are the responsibilities of the security personnel at Buell Mansion Subdivision.

Mr. Witkin indicated that the gatekeeper duties would be to keep out extraneous traffic. He stated that the gatekeeper would not keep people from walking into the subdivision or coming in by bicycle to enjoy the public park. Mr. Witkin commented that their intention is to keep the vehicular traffic down to only those residents and people who have business in the subdivision. He stated there is a problem whenever there is a bad traffic jam on Hampden Avenue and people try to cut through the Buell Mansion property to bypass the heavy traffic. Mr. Witkin stated that the gatehouse is needed to stop cars from cutting the corner at Hampden and University.

Councilmember Steiert asked if people, who are not residents or not invited by residents, who arrive in cars would not be permitted to enter.

Mr. Witkin replied yes.

Councilmember Steiert asked if they had given thought to disabled persons who couldn't visit the park unless they come by vehicle.

Mr. Witkin said that was something they had not addressed and it has not been raised as an issue.

Councilmember Steiert asked if the matter would have to be addressed under the Americans With Disabilities Act (ADA).

Mr. Witkin stated that whether or not the gatehouse is there wouldn't have any bearing on the matter.

Mayor Pro Tem Lahana asked if the University entrance to the subdivision would have a gate.

Mr. Witkin replied yes, a gate but not a gatehouse. He stated that the operation of the gate has not been decided yet and they are looking into a number of different mechanisms for the gate. He stated that they are looking into electronic sensor options that would allow easy access for police and fire department vehicles.

Mayor Pro Tem Lahana closed the public hearing at 7:25 p.m.

Councilmember Julander moved, seconded by Councilmember Giles, that CB 3-98, A Bill for an Ordinance Amending Title 6 and Title 7 to Define Guardhouses; to Allow Guardhouses as a Conditional Use; and to Set Forth a Conditional Use Review Process be approved on first reading. The following votes were recorded:

Deborah Julander	yes
Jan Steiert	yes
Viola Lahana	no
Tim Roble	no
John Love	no
Ned Giles	yes

And CB 3, Series 1998, was denied due to a lack of 4 yes votes by a vote of 3 yes and 3 no.

Ms. Smith stated that a motion to reconsider should come from one of the members of Council who voted against the ordinance.

Councilmember Roble asked if the motion to reconsider should come tonight.

Ms. Smith said that the motion to reconsider should come at the next opportunity or the next meeting. She further stated that fellow councilmembers could talk to each other about the issue, but no more than two at a time or the meeting would violate the open meeting law.

ORDINANCES, RESOLUTIONS AND PLATS

CB 16-98, A Bill for an Ordinance to Vacate a Utility Easement Across the East Eight Feet of Lot 1, The Reserve at Cherry Hills (First Reading)

Ms. Bohn informed Council that this item has been withdrawn at the request of the applicant.

CB 13-98, A Bill of an Ordinance Adopting a Budget and Levying Property Taxes for Fiscal Year 1999 (First Reading)

Ms. Thomas stated that this ordinance sets the budget and levies the tax in 1999.

Councilmember Love moved, seconded by Councilmember Julander, that CB 13-98, A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for Fiscal Year 1999 be approved on first reading. The following votes were recorded:

John Love	yes
Tim Roble	yes
Jan Steiert	yes
Deborah Julander	yes
Ned Giles	yes
Viola Lahana	yes

And CB 13, Series 1998, was passed unanimously on first reading.

CB 14-98, A Bill of an Ordinance Authorizing Appropriations for Fiscal Year 1999 (First Reading)

Ms. Thomas stated that this ordinance would authorize appropriations for 1999.

EXHIBIT F

Minutes of the Special Meeting of the
City Council of the City of Cherry Hills Village, Colorado
held on Wednesday, June 9, 1999 at 5:30 p.m.
at the Village Center

The meeting was called to order by Mayor Pro-Tem Viola Lahana 5:30 p.m.

Councilmembers Dixon Shay, Jan Steiert and Tim Roble were present on silent roll call. City Manager Cheryl Bohn, Director of Finance and Administration Claudia Thomas, Community Development Coordinator Tim Gelston and City Clerk MaryLou Taylor were also present.

Mayor Jeff Welborn and Councilmembers Ned Giles and John Love were absent.

AUDIENCE PARTICIPATION PERIOD

There was no one present wishing to address the Council during the audience participation period.

ORDINANCES, RESOLUTIONS AND PLATS

Item 4a, CB 6-99, An Ordinance Affirming the City Council's Authority to Sell and Dispose of Real Property (First Reading)

City Manager Cheryl Bohn presented CB 6-99 and explained that the City has the right to sell and dispose of real property granted by Home Rule Charter. After a brief discussion, Councilmember Steiert moved, seconded by Councilmember Roble, to approve CB6-99 on first reading. The following votes were recorded:

Dixon Shay	yes
Jan Steiert	yes
Viola Lahana	yes
Tim Roble	yes

The vote was passed unanimously.

Item 4b, CB 7-99, An Ordinance Amending Titles 6 & 7 to Define Guardhouses, to Allow Guardhouses as a Conditional Use, and to Set Forth a Conditional Use Review Procedure (First Reading)

City Manager Cheryl Bohn stated CB 7-99 defines and allows guardhouses and sets forth the review process. She said it will allow applicants to bring forth applications for guardhouses for review by the Planning Commission and City Council. She pointed out the changes in this Ordinance from the one presented to Council last November. Councilmember Shay asked about the ordinance by initiative that had been received by the City. Ms. Bohn explained that comments were returned to the applicant, but we have never received a corrected petition back. Mr. Howard Witkin, who was present in the audience, indicated that further work on the initiative had been suspended pending implementation of the Buell Mansion settlement agreement. Ms. Bohn also stated that tonight's ordinance has been reviewed with the applicants who are comfortable with it. Councilmember Shay offered to edit CB 7-99 with minor clarifications. The redlined version will be presented for second reading. Councilmember Shay moved and Councilmember Steiert seconded to approve CB 7-99 on first reading, subject to the clarifying changes. The following votes were recorded:

Tim Roble	yes
Viola Lahana	yes
Jan Steiert	yes
Dixon Shay	yes

The vote was passed unanimously.

EXHIBIT G

Minutes of the Regular Meeting of the
City Council of the City of Cherry Hills Village, Colorado
held on Tuesday, June 15, 1999 at 5:30 p.m.
at the Village Center

Council convened a Study Session at 5:30 p.m. to conduct interviews of Board and Commission applicants.

The regular meeting was called to order by Mayor Welborn 6:06 p.m.

Councilmembers Ned Giles, Dixon Shay, Jan Steiert, Tim Roble, John Love, and Viola Lahana were present on silent roll call. City Attorney Erin Smith, City Manager Cheryl Bohn, Police Chief Les Langford, Director of Finance and Administration Claudia Thomas, Director of Public Works Kevin Louis , Community Development Coordinator Tim Gelston, Police Captain John Arthur and City Clerk MaryLou Taylor were also present.

AUDIENCE PARTICIPATION PERIOD

There was no one in the audience wishing to speak during audience participation.

PUBLIC HEARINGS

5a. CB 7-99, An Ordinance Amending Titles 6 & 7 to Define Guardhouses, to Allow Guardhouses as a Conditional Use, and to Set Forth a Conditional Use Review Procedure (Final Reading)

Mayor Welborn opened the public hearing at 6:07 p.m. City Manager Bohn explained that the Council Bill in the packet had been red-lined with comments provided by Councilmember Shay.

No one from the audience wished to speak. Mayor Welborn closed the public hearing at 6:08 p.m.

Councilmember Roble moved, seconded by Councilmember Shay to approve CB 7-99. The following votes were recorded:

Ned Giles	yes
Dixon Shay	yes
Jan Steiert	yes
Tim Roble	yes
John Love	yes
Viola Lahana	yes

CB 7-99 passed unanimously on second reading.

5b. Approval of Highline Meadows in Cherry Hills Re-plat of Lots 9 & 10, Block 2

Mayor Welborn opened the public hearing at 6:09 p.m. Community Development Coordinator Tim Gelston reported that this is mainly a housekeeping function which makes a small adjustment to the lot line between Lot 9 and Lot 10, Block 2 on the Highline Meadows to correct the square footage of Lot 9 without making Lot 10 nonconforming.

No one from the audience wished to speak, so Mayor Welborn closed the public hearing at 6:10 p.m.

Councilmember Love moved and Councilmember Roble seconded to approve the re-plat of Lots 9 & 10, Block 2 on the Highline Meadows. The vote was unanimous.

CONSENT AGENDA

City Manager Cheryl Bohn requested item 6a be removed from the Consent Agenda for discussion. Councilmember Lahana asked for item 6g to be removed.

EXHIBIT H

TO: Mayor Duncan & Members of City Council

FROM: Chuck Coward, City Manager
Bob Morris, City Attorney

SUBJ: Guardhouse Request by Cherry Hills Farm

DATE: August 2, 1985

On May 21, 1985, the developers and residents of the Cherry Hills Farm Subdivision appeared before the City Council and requested permission to place a guardhouse on Cherry Hills Farm Drive at its intersection with University Boulevard so that access to their subdivision could be restricted. At this time there were three alternatives presented for Council consideration as a means of achieving this request. The first was to vacate all the streets in the subdivision and turn them over to the responsibility of the Cherry Hills Farm Homeowners Assn. Such an action would make the streets private and thus permit the restricted access as desired by the people. The second alternative was to vacate just a small portion of Cherry Hills Farm Drive at its intersection with University. This again would make a section of private street and permit the installation of a guardhouse for restricted access; however, it would also leave an island of public streets with no connection to outside public areas. The third alternative, and the one desired by the Cherry Hills Farm developers, is for the City and the Cherry Hills Farm Metropolitan District to enter into an Intergovernmental Agreement which would allow the District to take over the maintenance responsibility for the streets and grant permission to the District to restrict access to Cherry Hills Farm Drive. This alternative appears sound on its face, but does raise some questions about the right of the City Council to delegate the right to restrict public access on a public street to a metropolitan district.

After extended discussion of this matter in May, the Council concluded that only three of the several residents in the Cherry Hills Farm Subdivision were not currently in agreement with the proposal for a guardhouse. If those three could be persuaded to approve of this project, the most desirable alternative of vacating the streets could be achieved in an expeditious manner. With this information and the idea that agreement could be obtained from those three individuals, the Council asked the developer to obtain such agreement and to return with petitions to vacate the street.

On July 21, 1985, the developer did return to the Council regarding their request for restricted access to Cherry Hills Farm Drive. The developer advised that two of the three formally dissenting residents had agreed to the project and would support the vacation of the streets. He also advised that after extended negotiation with Mr. Chavez, it appeared he was unwilling to agree to the vacation of the streets under any circumstances. Given this situation, the developer again requested that Council consider the Intergovernmental Agreement alternative outlined above with an added safeguard that the Agreement would have a term of only three years, and if the final landowner had not agreed to the street vacation by that time, the guardhouse would be removed. After hearing discussion about the negotiations with Mr. Chavez, Council tabled the matter until tonight's meeting so that it could be reviewed by the entire Council.

Tonight the matter is again before the City Council as requested by the developer of the Cherry Hills Farm Subdivision. The staff remains concerned about the precedent that will be set for the method of allowing guardhouses at the entries to major subdivisions. Our recommendation remains that the best way to honor such a request is through vacation of the streets involved, thus placing them in the status of being private roads not subject to federal, state or local laws and thus the ability to restrict access is unquestionably available to the adjacent property owners.

Council Member Chambers said she was concerned about enforcement of building codes. She suggested that if a contract were executed that the City Council meet with Greenwood Village personnel to ensure that Cherry Hills Village's expectations would be met. Mr. Coward said that after speaking with the Mayor, City Manager and Chief Building Inspector of Greenwood Village, he is comfortable that the City's ordinances and building codes would be properly executed.

Council Member Washburne asked Mr. Coward if the City's present Building Inspector, Mr. Braucht, had any recommendations for building inspection services. Mr. Coward replied that he did not, but said he would be glad to speak with Mr. Braucht on the matter. Council Member Washburne said another alternative for building inspection would be to contract the service to a retired person. Mr. Coward said he had made some inquiries, but has not been able to find such a person interested in doing the work required.

Council Member Watts suggested that the matter of building inspection services be deferred until the next Council meeting so it can be studied further. Council concurred with this suggestion.

AUTHORIZATION TO ADVERTISE FOR BIDS ON 1985 STREET IMPROVEMENT PROGRAM.

City Manager Coward explained that the 1985 Street Improvement Program involves an asphalt overlay with a fabric underliner for Colorado Boulevard and asphalt overlay for Nassau Circle West, Sanford Drive West and Princeton Avenue in Southmoor Vista. He said $120,000 is budgeted for the project.

Upon a motion by Roy Watts, seconded by Viola Lahana, it was unanimously approved to advertise for bids for the 1985 Street Improvement Program.

REQUEST FOR INTERGOVERNMENTAL AGREEMENT BETWEEN CITY AND CHERRY HILLS FARM METRO DISTRICT TO PROVIDE PRIVATE STREETS IN CHERRY HILLS FARM SUBDIVISION

Mr. Ron Loser, Attorney for Cherry Hills Farm Metropolitan District and Cherry Hills Farm Homeowners Association, explained the reason for the request for private streets is to control unnecessary public access to the Cherry Hills Farm Subdivision. He said the control would be done by installation of a guardhouse staffed with security personnel. Mr. Loser presented a petition signed by many Cherry Hills Farm residents requesting that the streets become private. He said nearly 100% of the residents have signed the petition. Mr. Loser said under the intergovernmental agreement, the Cherry Hills Farm Metropolitan District would maintain the roads and guardhouse, and the developer would build the guardhouse. Mr. Loser then graphically explained the request for private streets on plats of Cherry Hills Farm. He said that access has been provided for emergency vehicles and other necessary vehicles for service and maintenance of the properties within Cherry Hills Farm.

Council Member Watts asked if the Homeowners Association and the Metropolitan District were one in the same. Mr. Loser answered that they were not, that the Metropolitan District is a governmental entity and was created in 1977. Council Member Watts asked why a vacation of streets was not requested instead of the agreement. Mr. Loser replied that it is necessary to have 100% of the homeowners in agreement in order to request a vacation, and that presently

there is not 100% of the residents in agreement. He said the participation of residents for street vacation would still be pursued through the Homeowners Association.

Council Member Chambers said she had reservations about constructing a guardhouse on public property and felt the streets should be vacated if they wish to have a guardhouse constructed.

Mr. Richard Chavez, 2 Cherry Hills Farm Drive, said he wished to see the streets remain public as he does not like the isolation of private streets.

Mr. Steve Mizel, 4662 S. Elizabeth Court, said Mr. Chavez is the only resident out of forty who is opposed to having private streets, and said that Mr. Chavez' home is for sale. Mr. Mizel expressed concern for the safety of children in the area because of the traffic volume. He said he would like to see private streets to gain security and control of outside traffic.

Dr. Ron Yaros, 4785 S. Clayton Court, said his family moved to Cherry Hills Farm because they wanted an environment where their children could play and not be in traffic. He said many outside people come into Cherry Hills Farm on weekends sightseeing and the traffic is a real problem.

Mr. Steve Grossman, 4602 S. Elizabeth Court, said he has lived in Cherry Hills Farm for five and one-half years and has watched the traffic steadily increase from a few cars to a parade. He said he does not feel his children are safe on the street because of the increased traffic and feels that as a taxpayer he has a right to a solution to the problem. He feels making the streets private is the best solution.

Mr. E. Peter Matthies, 4603 S. Elizabeth Court, expressed his concern for the children in the area and the volume of traffic.

Council Member Watts asked if any other alternatives had been attempted such as security forces or asking for more police patrol. Mr. Michael Sheldon, Attorney representing Cherry Hills Farm, said the Homeowners Association has its own security guard, but he has not been effective in deterring traffic from entering the development. Mr. Sheldon said the architectural control committee for the Homeowners Association is also encouraging the planting of larger trees around the homes, as the growth will eventually buffer the homes from the street and will help control sightseers. He said that could take up to ten years, so another solution must be sought at this time.

Council Member Watts asked Mr. Coward how the Police Department felt about the traffic volume in Cherry Hills Farm. Mr. Coward answered that he had not spoken with the Police Chief about traffic volumes, but agreed that the sightseers are a problem. He said neither the staff or Police Department see the guardhouse or private streets as a problem, but they do have concerns about limiting public access on a public roadway. The proper way to enact the desired program would be to vacate the streets.

Council Member Watts asked if a petition had been signed by the Cherry Hills Farm residents in favor of the guardhouse and private streets. Mr. Coward said he has a petition signed by all but three of the property owners requesting vacation of the streets.

Mr. Coward suggested that the Council take the matter under advisement until he and the City Attorney can meet with Mr. Loser and the remaining three signatures can be obtained on the petition to vacate.

Upon a motion by Roy Watts, seconded by Viola Lahana, it was unanimously approved that the request for an intergovernmental agreement between the City of Cherry Hills Village and the Cherry Hills Farm Metropolitan District be deferred.

There being no further business to come before the Council, the meeting was adjourned at 8:43 p.m.

Joan R. Duncan

Joan R. Duncan, Mayor

Elizabeth N. Noel

Elizabeth N. Noel, City Clerk

EXHIBIT J

Washburne suggested 18%.

Council Bill No. 17, Series of 1985, entitled "AN ORDINANCE CREATING TITLE 1, CHAPTER 13 OF THE CITY CODE RELATING TO DELINQUENT TAXES, FEES ASSESSMENTS, FINES AND PANALTIES AND PROCEDURES FOR COLLECTION THEREOF AND INTEREST AND ATTORNEYS' FEES", was introduced by Theodore Washburne, seconded by Merle Chambers, and considered in full text with an accrued interest rate of 18%. The following vote was recorded:

Viola Lahana	- yes
Theodore Washburne	- yes
Merle Chambers	- yes
Ann Polumbus	- yes
Roy Watts	- yes

and Council Bill No. 17, Series of 1985, was unanimously approved on first reading.

AWARD CONTRACT FOR UNIVERSITY SIDEWALK CONSTRUCTION

Mr. Coward said eight bids had been received for the extension of the sidewalk on University Boulevard from Quincy Avenue to south of St. Mary's Academy. He recommended that Leeway Construction be awarded the bid for $29,182.00.

Council Member Washburne asked if the specifications on this phase of the project differed from those of the last phase. Mr. Coward answered that they did not, that the second phase would also be concrete.

Upon a motion by Ann Polumbus, seconded by Theodore Washburne, it was unanimously approved that the University Boulevard bikeway phase II construction be awarded to Leeway Construction in an amount not to exceed $29,182.00.

CHERRY HILLS FARM REQUEST FOR PRIVATE STREETS

Mr. Michael Sheldon, Attorney for Cherry Hills Farm, reported that there is still one resident of Cherry Hills Farm who has not agreed to sign the petition for vacation of the streets within the subdivision. Mr. Sheldon asked Council to adopt a resolution of intent to vacate the streets when 100% of the Cherry Hills Farm residents are in agreement to do so.

After much Council discussion, the consensus of the Council was that it would not be appropriate to adopt a resolution of intent.

SCOTT COOPER - PUBLIC APPEARANCE ON PROCEDURE FOR ELECTION OF CITY COUNCIL

Mr. Scott Cooper, 10 Parkway Drive, spoke to the Council saying he wished to see the procedure for election of Council Members changed so that members of Council would be elected by district and not by the City at large. Mr. Cooper asked for Council support so the matter could be put on the ballot for the next election.

EXHIBIT K

---DRAFT---

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, January 13, 2015 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Vice Chair Savoie called the meeting to order at 6:31 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Vice Chair Peter Savoie, Commissioner Steve Szymanski, Commissioner Al Blum, Commissioner David Wyman, Commissioner Jim Rubin, and Commissioner Peter Niederman.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director and Cesarina Dancy, Community Development Clerk.

APPROVAL OF MINUTES

Mr. Zuccaro requested to defer the approval of minutes to the end of the meeting. The Commission agreed.

AGENDA ITEMS

a. *Proposed Amendments to Municipal Code Sections 16-1-10 and 16-18-20 to Remove the Current Restriction that Guard Houses Only be Allowed for Private Streets.*

Mr. Zuccaro stated that staff is presenting a request for amendments to Code Sections 16-1-10 and 16-18-20 to allow guard houses on public roads. He continued to say that currently City Code only allows guard houses on private roads.

Mr. Zuccaro stated that the Cherry Hills Farm subdivision is requesting this amendment as they would like to construct a guard house at the entrance to the subdivision that faces University Boulevard. He continued to say that the proposed guard house would not include a gate or be intended to restrict access to the subdivision.

Mr. Zuccaro displayed the original conceptual plan of Cherry Hills Farm from 1978. He indicated that on the original plan, a tract of land, designated as Parcel E, was platted to the HOA for the purpose of an observation only guard house.

Mr. Zuccaro stated that the intent of the HOA is in line with the original plan of the neighborhood. He continued to say that currently City Code does not allow guard houses on public streets.

Mr. Zuccaro stated that there was a listing of pros and cons in the staff memorandum. He continued to say that the Commission could recommend to City Council approval as drafted or with conditions, recommend denial, or recommend continuance pending further information.
Commissioner Niederman asked are there currently any guard houses on public roads.

Mr. Zuccaro replied no. He continued to say that the other guard houses in the City are on private roads, such as Glenmoor and the Buell Mansion. He stated that this is a unique situation, as Cherry Hills Farm is the only subdivision with public roads with a tract of land platted for a guard house.

Commissioner Niederman asked if the ordinance could remain as is and this application could be approved as part of a special use.

Mr. Zuccaro replied that he could check with the City Attorney but that staff feels this is the best option in this circumstance.

Commissioner Niederman asked when the ordinance was put into place why were only private roads designated.

Mr. Zuccaro replied that he did not know. He continued to say that there was a request by the HOA in 1985 requesting the priva ization of the roads, but that the HOA did not receive full neighborhood support.

Commissioner Blum asked if there was a variance process that could be used.

Mr. Zuccaro replied that typically variances are related to zoning codes and this would be a variance for use, which is not typical for the variance process. He continued to say that variance criteria are difficult to meet.

Commissioner Niederman asked if this ordinance change could be applied elsewhere in the City.

Mr. Zuccaro replied that it is unlikely as the guard house would have to be on a tract of land that was owned by an HOA.

Vice Chair Savoie asked what if other neighborhoods donated land to their respective HOAs.

Mr. Zuccaro replied that they would have to sell the land to the HOA and go through the subdivision process with the City.

Vice Chair Savoie asked if the Calkins property would be allowed a guard house.

Mr. Zuccaro replied that the main road of that property is already a private road. He continued to say that there was a requirement of space in order to have enough room to construct the guard house.

Commissioner Blum asked if any other communities have requested a guard house.

Mr. Zuccaro replied no.

Commissioner Rubin asked if there would be a gate.

Mr. Zuccaro replied that the City would not support a gate on public roads.

Commissioner Blum stated that a negative could be traffic backing up onto University Boulevard.

Mr. Zuccaro replied that traffic stacking would be evaluated by the City Engineer. He continued to say that visitors would not be required to stop at the guard house.

Kelly Digby, of 21 Cherry Hills Farm Drive, stated that she was the current president of the HOA. She stated that the HOA has expressed the need for a comfort station for the guard for several reasons. She stated that the HOA is looking to replace their security equipment and a new structure is necessary to house it. She continued to say that if the guard is able to be in the comfort station at times, the car will not be constantly running. She stated that the HOA has plans to convert the existing patrol car to an electric car.

Mrs. Digby stated that there are no plans to put up a gate or signage in relation to the guard house. She displayed a rendering of the proposed guard house, noting its location is setback from University Boulevard.

Mr. Zuccaro stated that details of design should not be discussed at this time as they will be part of the conditional use application which will be heard by the Commission at a later date.

Commissioner Niederman asked if all of the residents of the neighborhood were in favor of this plan.

Mrs. Digby replied that there is no opposition to the proposal.

Vice Chair Niederman made a motion, which was seconded by Commissioner Rubin to recommend approval of the amendments to Municipal Code Sections 16-1-10 and 16-18-20 to remove the current restriction that guard houses only are allowed for private streets as drafted in the January 15, 2015 staff memorandum. He continued to say that the recommendation is based on the finding that, subject to a Conditional Use Permit, guard houses may be considered a suitable use for certain subdivisions within the Village that do not have private roads.

The motion passed unanimously.

APPROVAL OF MINUTES

Mr. Zuccaro directed the Commission to turn to page 2 of their draft minutes. He indicated that the Arapahoe Tennis Club was given the opportunity to review the minutes which is not standard procedure, but that they had concerns about the minutes following the City Council meeting. He continued to say that the ATC indicated a discrepancy in the minutes. Mr. Zuccaro stated that the portion of the minutes in question was then transcribed verbatim.

Mr. Zuccaro stated that the summary minutes were indicated in the strike through and the verbatim transcription was indicated by underline. He continued to say that the Commission is under no obligation to adopt the verbatim minutes.

Mr. Zuccaro stated that he and Cesarina Dancy had listened to the recording multiple times and he is confident that what was transcribed is accurate. He continued to say that the attorney for the ATC is disputing the accuracy of the verbatim transcription.

Vice Chair Savoie asked what the gist of the issue was.

Mr. Zuccaro replied that the Commission recommended some conditions. He continued to say that the ATC is stating that they were unaware of the condition of the membership cap.

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

City Council Agenda

Tuesday, February 3, 2015

AMENDED

6:30 p.m.

1. Call to Order

2. Roll Call of Members

3. Pledge of Allegiance

4. Audience Participation Period (limit 5 minutes per speaker)

5. Consent Agenda
   a. Approval of Minutes – January 20, 2015
   b. Resolution 4, Series 2015; Adopting Nonconforming Short Term Rental License Fees
   c. Resolution 5, Series 2015; Appointing Members to the Board of Adjustment and Appeals
   d. Resolution 6, Series 2015; Appointing Members to the Planning and Zoning Commission
   e. Resolution 7, Series 2015; Appointing Members to the Parks, Trails and Recreation Commission
   f. Resolution 8, Series 2015; Quitclaim Property to CDOT
   g. Highway User Tax Funds (HUTF) Mileage Certification
   h. Professional Services Agreement Between City of Cherry Hills Village and Conservation Partners, Inc.

6. Items Removed From Consent Agenda

7. Unfinished Business

8. New Business
   a. Council Bill 1, Series 2015; Amending Sections 16-1-10 and 16-18-20 of the Municipal Code Concerning Guard Houses (*first reading*)

9. Reports
   a. Mayor
   b. Members of City Council
   c. Reports from Members of City Boards and Commissions
   d. City Manager and Staff
   e. City Attorney

10. Adjournment

Notice: Agenda is subject to change.
If you will need special assistance in order to attend any of the City's public meetings, please notify the City of Cherry Hills Village at 303-789-2541, 48 hours in advance.