

**RECORD OF PROCEEDINGS**

Minutes of the  
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado  
Held on Tuesday, October 28, 2014 at 6:30 p.m.  
At the Village Center

**CALL TO ORDER**

Chair Christman called the meeting to order at 6:34 p.m.

**ROLL CALL**

Present at the meeting were the following Planning and Zoning Commissioners: Chair Laura Christman, Commissioner Steve Szymanski, Commissioner Al Blum, Commissioner Jim Rubin, and Commissioner Peter Niederman.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; Marcus McAskin, Deputy City Attorney; and Cesarina Dancy, Community Development Clerk.

Absent from the meeting were Vice Chair Peter Savoie and Commissioner David Wyman.

**APPROVAL OF MINUTES**

Commissioner Szymanski made a motion, which was seconded by Commissioner Niederman, to accept the October 14, 2014 minutes as written. The motion passed unanimously.

**AGENDA ITEMS**

- a. Proposed Ordinance Amendments to Article XIV, Chapter 16 of the Municipal Code Concerning Establishment and Certification Requirements for Legal Nonconforming Uses and Operational and Licensing Requirements for Legal Nonconforming Short Term Rental of Single Family Dwellings.

Mr. Zuccaro stated that Staff is presenting for recommendation to City Council amendments to Article XIV of the Zoning Ordinance to provide updated provisions for the establishment and certification of nonconforming uses and operational and licensing requirements for legal nonconforming short-term rental of single-family dwellings.

Mr. Zuccaro stated that the ordinance would require a proposed legal nonconforming use to be established either through an application to the City for certification or by judicial proceedings. He continued to say that new regulations are proposed that would require licensing and operational requirements for any short term rental of a single family dwelling that is legally nonconforming.

Mr. Zuccaro stated that the new amendment would also change the amount of time which the nonconforming use can remain unused from one year to six months.

Mr. Zuccaro stated that in 2012 the City Code made clarification on the definition of short-term rental and changed the minimum term of rental to 90 days.

Mr. Zuccaro stated that there are several operational requirements which would be required to operate as a legal nonconforming short term rental. He continued to say these requirements include: the City must be provided with a copy of each short-term rental lease at least 5 business days in advance of the rental period; the maximum number of occupants allowed shall not

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exceed 2 per bedroom up to a maximum of 10 occupants; all parking shall be off street parking with a minimum of one parking space per bedroom; all such properties will be considered "Residential Group R" and are subject to applicable building code regulations adopted by the City; the owner agrees to authorize at minimum, annual on-site inspections by appropriate building, fire, and zoning officials to ensure compliance; all properties shall comply with all applicable City ordinances and regulations including, but not limited to zoning, noise, nuisance, lighting, and building codes; properties shall not be altered to change the residential character or outside appearance of the property through the use of paint colors, materials, signage, or lighting; properties shall have a designated property manager that is available 24 hours a day; rental of properties for special events is prohibited; property owners shall provide to the City the name and address of each occupant and relation of occupants in order to verify compliance with the City definition of family; and the owner shall provide the City with evidence of payment of all applicable taxes and fees.

Commissioner Niederman asked if a home could be rented out weekly for an event, such as the recent golf tournament.

Mr. Zuccaro replied no because it would be for less than 90 days.

Commissioner Blum asked how many legal nonconforming properties are in the City.

Mr. Zuccaro replied that the number is unknown.

Commissioner Szymanski asked if houses used as short-term rentals prior to 2012 that were grandfathered in would also lose their status if they did not rent for a six month period.

Mr. Zuccaro replied yes.

Mr. Zuccaro continued to say that if owners were conducting the short-term rental prior to 2012 it is possible they could be grandfathered in. He stated that they would still have to certify with the City.

Commissioner Blum asked how owners would prove their legal nonconforming status.

Mr. Zuccaro replied that they would have to provide documentation that shows when their legal nonconforming use was established, prove that they have a substantial financial investment, and that the use is not as an accessory to the primary use.

Commissioner Szymanski asked how many houses were granted legal nonconforming status after 2012.

Mr. Zuccaro replied that there has never been a formal process for owners to come forward, so there is no way to know.

Mr. Zuccaro stated that currently the burden of proof of legal nonconforming status is on the City; the new ordinance will transfer the burden of proof of legal nonconforming status to the property owner.

Commissioner Niederman asked what are the current consequences of using property as a short term rental illegally.

Mr. Zuccaro replied that owners can be issued a municipal citation.

Deputy City Attorney McAskin stated that the City is concerned about rental activity being conducted and that setting up licensing and other requirements would require properties to be up to code.

Chair Christman stated that a party atmosphere lends itself to nuisance problems, including noise, as well as life safety issues and disrupting nearby animals.

Mr. Zuccaro stated that the properties would be held to the same standards as all other properties in the City.

Chair Christman asked how the properties would be consistently checked.

Mr. Zuccaro stated that the City would encourage neighbors to make formal complaints with the police regarding any issues. He continued to say that requiring licensing can be beneficial, as complaints can be tied to a specific license and would give property owners incentive to comply with all regulations.

Chair Christman asked what the consequence would be if an occupant violated the law.

Mr. Zuccaro replied that the City could revoke the license, but not the legal nonconforming status.

Commissioner Szymanski asked what the fine per offense would be.

Assistant City Attorney McAskin stated that judges like to have the freedom to impose their own fines, but that maximum fines are up to \$2,450 per day of the violation.

Commissioner Niederman asked why the short term use cannot be removed totally for the properties renting after July 2012.

Assistant City Attorney McAskin replied that amortizing uses is no longer legal. He continued that the use can be continued with conditions.

Chair Christman asked how renters would show they were a family.

Mr. Zuccaro replied that the City would follow the criteria set forth in item 10 of the ordinance.

Chair Christman asked if occupants could be required to provide government-issued identification.

Assistant City Attorney McAskin stated that renters could use identification belonging to other people and that there was no real way to verify it.

Commissioner Niederman asked how this information will be conveyed to residents.

Mr. Zuccaro replied that the requirements will be sent to anyone known to be using property for rentals. He continued to say that the City Council meeting would also be a public hearing.

Chair Christman stated that animals should be prohibited as they could potentially be a nuisance and disruptive to neighboring animals. After a discussion, the Commission decided to not include a statement regarding animals.

Commissioner Niederman stated that there should be a time frame for those seeking nonconforming status to come forward and identify themselves, as well as a time frame to make license application and bring their property up to code.

After a discussion regarding options for timing of various, the Commission determined that residents should apply for legal nonconforming status within 60 days of the passing of the ordinance. The Commission also determined that after a resident achieves legal nonconforming status, they will then have 180 days to apply for and comply with licensing requirements.

Commissioner Rubin asked if owners would be allowed to rent their property while they were bringing the property into compliance.

Commissioner Niederman stated that income could be negatively affected if owners are not allowed to rent during that six month period.

Assistant City Attorney McAskin stated that if the applicant has a signed lease which precedes the licensing requirements they should be allowed to continue renting.

Mr. Zuccaro stated that the City would be in the difficult position of honoring some leases but not others.

Commissioner Niederman made a motion, which was seconded by Commissioner Rubin to approve the proposed ordinance as drafted with the following additions:

1. Residents will have 60 days to apply for legal nonconforming status from the date of the passing of the ordinance.
2. Residents will have 180 days to apply for and comply with all licensing requirements once legal nonconforming status is granted.
3. All renters will be required to provide government-issued photo identification.

The motion passed unanimously.

Chair Christman stated that she would like the Commission to consider having once monthly scheduled meetings, with the right to call special meetings as needed.

Commissioner Rubin asked what the time frame for public notification regarding meetings is.

Mr. Zuccaro replied that generally staff needs to know about 4 weeks prior to the meeting so that the property notice can be arranged.

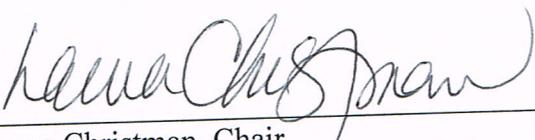
Commissioner Blum stated that he would like the option of a flexible meeting date.

Commissioner Blum made a motion, which was seconded by Commissioner Szymanski, to adjourn the meeting.

The motion passed unanimously.

### **ADJOURNMENT**

The meeting was adjourned at 8:04 p.m.

  
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 Laura Christman, Chair

  
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 Cesarina Dancy, Community Development Clerk