



City of Colorado Springs

Plaza of the Rockies
South Tower, 5th Floor
Blue River Board Room
121 S Tejon St, Colorado
Springs, CO 80901

Meeting Minutes - Final Planning Commission

Thursday, October 21, 2021

8:30 AM

Hybrid Meeting - Open to Public
Call 720-617-3426 Conf ID: 815 137 01#

116 S Fourteenth St - Short Term Rental Appeal

6.K. [CPC AP
21-00157](#)

Postpone an appeal of the Planning Commission's decision to uphold the administrative denial of the Short Term Rental permit for 116 South Fourteenth Street for an ownership change to the January 25, 2022 City Council Meeting. The intent of the postponement is to refine the internal STR policy regarding ownership based on Planning Commission discussion.

(Quasi-Judicial)

Presenter:

Carli Hiben, Program Coordinator

Peter Wysocki, Director of Planning and Community Development

Staff presentation:

Carli Hiben, City Planning, presented a PowerPoint with the scope and intent of this project.

- Ordinance 18-122 - established STR Program
 - Permit transfer not permitted
- Ordinance 19-101 (went into effect December 26, 2019)
 - Established the 500' non-owner occupied buffer.
- Permit Issued
 - September 2019 to Chyenne Ueland (STR-1003)
 - October 2019 to Chyenne Ueland (STR-1246)
- Ownership Transfer
 - July 9, 2020, to 14th Street Ltd
- Denial (September 20, 2021)
 - Ownership transfer
 - Within 500' buffer of several other established non-owner occupied STRs

Applicant Presentation:

Charlie Ruprecht, attorney for the appellant, presented a PowerPoint with the scope and intent of this appeal, along with the appellant, Ms. Chyenne Ueland.

- Ms. Ueland requested her appeal be granted because the reason for the denial of her renewal permit for the short term rental was contrary to the intent of the law and unreasonable, pursuant to 7.5.906(4)(b)(1-5).
- **2019:** Ms. Ueland applied for a STR permit and listed herself as the "Owner" and STR permit issued

- **Late 2019:** Ms. Ueland and her husband learn that their child is legally disabled and will require 24/7 care for the rest of his life.
- **2020:** Ms. Ueland consults with an estate planning attorney to ensure that the needs of her child will be provided for upon her death. Ms. Ueland and husband execute estate planning documents to create "THE JON AND CHYENNE UELAND TRUST" a Special Needs Trust for their son, upon their death.
- **July 2020:** Ms. Ueland retitles property from Jon and Chyenne Ueland to "14th Street Ltd."
- **October 2020:** Ms. Ueland applies for and is granted a renewal of her STR permit.
- **November 2021:** An "Assignment of Beneficiary" is executed transferring Ms. Ueland's interest in the LLC to the Special Needs Trust upon her death.
- 14th Street Ltd. is single-member LLC under the exclusive control of Ms. Ueland at all relevant times
- At all relevant times, Ms. Ueland remained the owner-in-fact of the property exercising exclusive control
- Should the appeal be denied, the subject property is no longer eligible for a new non-owner occupied STR permit

Questions:

Commissioner Almy asked if Single Member LLC was a legal definition or was that a qualifier based on this situation? Mr. Ben Bolinger, City Attorney, explained an LLC is just an LLC; it can have one member, or it can have several members, but there is no specific legal difference between them.

Commissioner Almy asked if the October 2020 renewal listed the LLC. Mr. Ruprecht said it did not and there was no place on the application that allowed for it. Ms. Hibben said in October of 2020 when the renewal was granted, the assessor's office was behind in updating changes and that the LLC would not have shown on the website.

Commissioner Almy said it seemed like the financial and/or estate planning communities are offering advice on the Short Term Rentals that turns out to be inconsistent with the ordinance. The advice given is to give the client the best possible position for further life events; however, it is the client's choice to do that, but it was important to know what all the downsides were. Commissioner Almy suggested that City Planning might want to communicate to the financial groups letting them know their advice might be a problem for their clients.

Mr. Ruprecht said Ms. Ueland was trying to set herself up for future life events and asked if it was the intent of the ordinance to create a pitfall for people who are simply trying to advantage themselves legally for future life events? Ms. Ueland's position of the ordinance is to ensure that control over the property does not transfer away from the person that made a commitment with the City to maintain that property throughout the short term rental permit.

Supporters:

N/A

Opponents:

N/A

Questions of Staff:

Commissioner Almy asked if the City monitored all quick claims for Short Term Rentals. Ms. Hiben said no, it is only reviewed during the renewal process.

Rebuttal:

Mr. Ruprecht said there seems to be substantial agreement that the way the ordinance was written was overbroad, may not be precise, and may be applied in manners that are inconsistent with the intention. A denial in Ms. Ueland's appeal will result in a permanent loss for her to use the property as a short term rental property.

Commissioner Hente informed Mr. Ruprecht that regardless of how the vote occurs, there was an opportunity to appeal this to City Council.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Almy said he understood the quandary and was sympathetic, but the Commission needed to be consistent going forward with their decisions on the appeals. Commissioner Almy said there are unintended consequences, not necessarily improper, but unintended consequences of the ordinance that need to be reflected by the community that is trying to address them, which is the financial planners and estate planners. If there is some general thing that overtime we see as an inconsistency that needs to be addressed, then the City Planning Department should look at that and see if there is some way to clarify the ordinance. But in the meantime, there is an ordinance to follow.

Commissioner Slattery said her understanding of the intent from the City on ownership changes in the ordinance was to keep housing intact for citizens. Changing from a human to an LLC is a change of ownership because whether it is now or upon a death or another time, there is nothing stopping that entity from selling the LLC. It protects your legal status and your liability, but it is a change of ownership. Commissioner Slattery said she will continue to interpret it as a change of ownership and will be voting to deny the appeal.

Commissioner Hente referred to the renewal permit that was granted in 2020 and said the property had changed ownership, and part of his experience of working in real estate was that the County records sometimes are slow to catch up. When the City granted the renewal and checked the county website, it was still in the appellant's name and not the LLC, so the City renewed the permit based on that.

Commissioner Hente said this was a tough situation and that the commissioners are sympathetic to the issue. He said the ordinance cannot be changed by the Planning Commissioners and said the right people to talk to would be City Council. With that, Commissioner Hente said he would have to agree with Commissioner Slattery in that the ordinance was the ordinance and he would be consistent with his past votes.

Commissioner Rickett said the fact the application did not indicate the LLC ownership change in 2020 invalidates the appellant's argument. He said he agreed that the commissioners cannot change the ordinance, and he would be in support of a denial of the appeal.

Commissioner McMurray restated his own position on this issue. He said he was in concurrence with the appellant on this as it relates to the intent and the reasonableness of the ordinance. As a commissioner who was involved at the time the ordinance was passed and if this type of edge case had been considered at that point, it would have substantially influenced his own approach to the ordinance. Commissioner McMurray said he would argue that the commission was not being tasked with changing the ordinance, but the commission's task was to interpret the ordinance per criteria, and the commission does have the ability to apply that interpretive standard.

Commissioner McMurray said he recognized the intent of the ordinance to prohibit transfer to an entity is good in general as the purpose was to prevent the distant disinvestment in our neighborhoods. But, when a single owner changing to an LLC who lives within our community, it is well within the commission's parameters to acknowledge that, and this was not part of the intent of the ordinance making it an unreasonable situation. Commissioner McMurray said he would be voting in favor of the appeal.

Commissioner Eubanks said in the past with the short term rental permit appeals, she voted similarly to Commissioner McMurray and would continue to do so in this instance.

Commissioner Rickett said there were great comments all around, and he did not necessarily disagree with those who are in support of the appeal. He said for the sake of City Council, this needs to be addressed more clearly by Council or the Planning Commission and suggested a formal process with every application to show the ownership of the LLC.

Motion by Commissioner Almy, seconded by Commissioner Rickett, to deny the appeal and uphold the denial of the Short Term Rental renewal application, based on the City Code Sections 7.5.1704.C and 7.5.1702.B, and that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.A.4. The motion passed by a vote of- 4:2:3:0

Aye: 4 - Chair Hente, Commissioner Slattery, Commissioner Rickett and Commissioner Almy

No: 2 - Vice Chair McMurray and Commissioner Eubanks

Absent: 3 - Commissioner Raughton, Commissioner Wilson and Commissioner Graham