

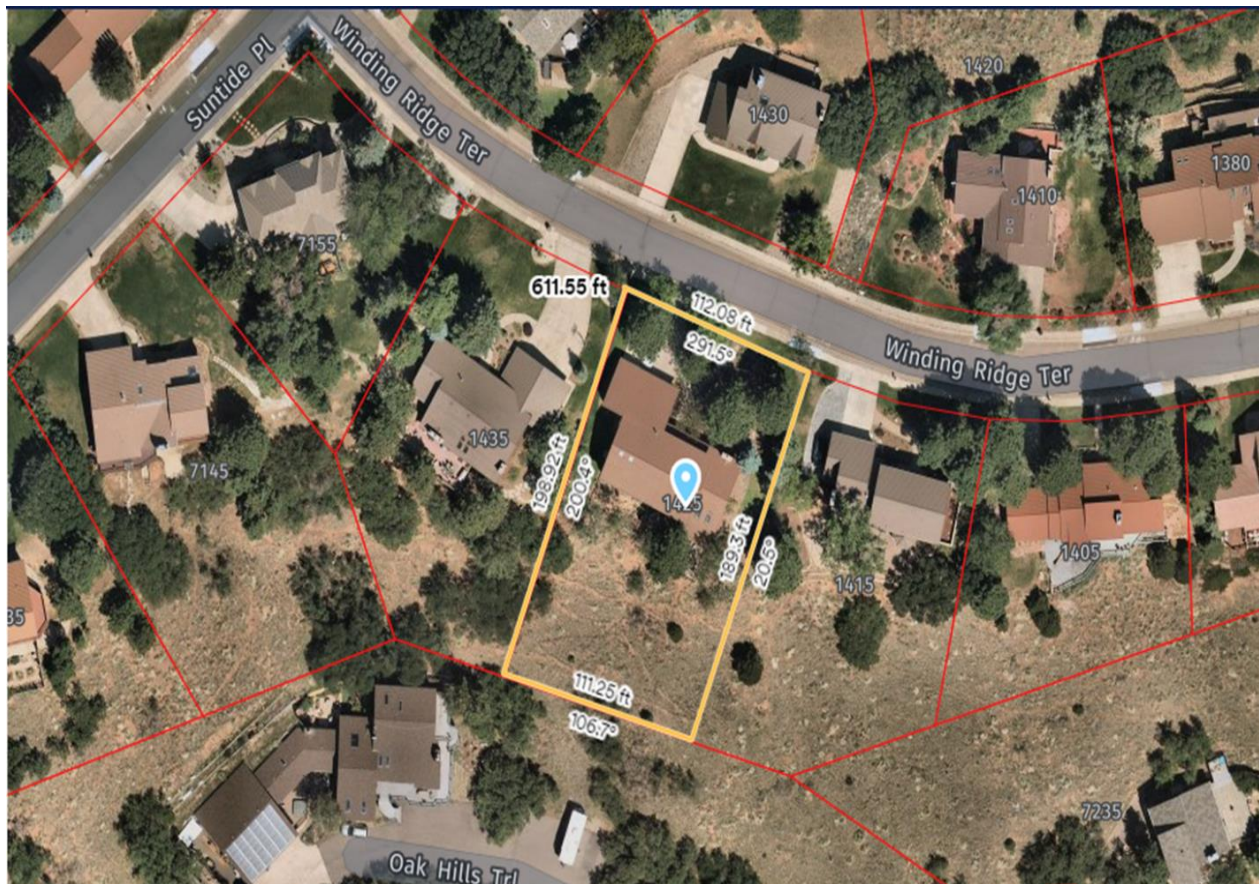
CITY PLANNING COMMISSION AGENDA

STAFF: Sean Cope, Senior Code Enforcement Officer

FILE NO(S):
CPC AP 21-00036

PROJECT: **APPEAL OF NOTICE AND ORDER TO ABATE ZONING VIOLATION**
1425 Winding Ridge Terrace
Colorado Springs, CO 80919

APPLICANT/OWNER: **1425 Winding Ridge Terrace LLC**
1425 Winding Ridge Terrace
COLORADO SPRINGS, CO 80919





PROJECT SUMMARY:

1. Project Description: This is a request to appeal the Notice and Order to abate the zoning code violation issued to the owner of 1425 Winding Ridge Terrace, Colorado Springs, CO, 80919 on March 10, 2021, for violation of short-term rental unit permit required.

The property is zoned PUD/HS (Planned Unit Development with a Hillside Overlay) and is located east of Suntime Place and North of Oak Hills Drive.

2. Applicant's Appeal Statement: **(FIGURE 1)**
3. Community Development Department's Recommendation: Staff recommends the City Planning Commission uphold the Notice and Order and to Abate and deny the appeal.

BACKGROUND:

1. Site Address: 1425 Winding Ridge Terrace – Tax Schedule Number 7311103038
2. Existing Zoning/Land Use: PUD/HS (Planned Unit Development with a Hillside Overlay)
3. Surrounding Zoning/Land Use: All surrounding properties are zoned PUD/HS.
4. Annexation: 1986
5. Master Plan/Designated Master Plan Land Use: Rockrimmon.
6. Legal Description: LOT 50 MOUNT WOODMEN ESTATES FIL NO 5 COLO SPGS
7. Zoning Enforcement Action: Neighborhood Services received a complaint concerning a change of property ownership that occurred on July 17, 2020. The change of ownership invalidated the short term rental permit. Due to the nature of the complaint, a Notice and Order to Abate the violation was served to the owner as a basis for future enforcement action in relation to the short-term rental use of this property if the conditions are not abated.

8. Physical Characteristics: The property is 21,600 square feet in size, zoned PUD/HS, and consisting of one single family dwelling unit.

STAKEHOLDER PROCESS AND INVOLVEMENT:

No stakeholder process is required with the issuance of a Notice and Order to Abate. The site will be posted and postcards mailed to notify property owners located within 1000 feet of the subject property regarding the City Planning Commission hearing, posted for 10 days prior per current Code requirements.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN:

1. Timeline of the Notice and Order Issuance:

A complaint filed against the property alleges: The property was transferred from Ian Kallenbach and Molly Kallenbach to 1425 Winding Ridge Terrace LLC on July 17, 2020. Upon transfer, the permit expired. The property is not within a zone that allows for non-owner occupied short-term rental permits after December 26, 2019. Granting a permit to the 1425 Winding Ridge Terrace LLC as a continuation of the previous owner's permit is not permitted as part of City Code Section 7.5.1702.B which states:

The short term rental unit permit does not run with the property, but is issued to the specific owner of the property. The permit shall expire upon sale or transfer of the property. The permit shall not be transferred or assigned to another individual, person, entity, or address but may be managed by a third party on behalf of the owner.

Between November 13, 2020 and March 10, 2021 Neighborhood Services staff conducted an internal review of the City Code, consulted with the Land Use Review Division and City Attorney's Office. The property transfer to an LLC (Limited Liability Company) was determined to be a violation of City Code Section 7.5.1702.B as this is considered a transfer of ownership.

On March 10, 2021, a Notice of Violation and Order to Abate was posted to the property at 1425 Winding Ridge Terrace and sent via certified mail to 8111 Valli Farm Rd, Fountain, CO 80817 and to 1425 Winding Ridge Terrace LLC's business address at 90 South Cascade Avenue, Suite 400, Colorado Springs, CO, 80903 **(FIGURE 3)**.

On March 22, 2021, Mr. Kallenbach filed an appeal of the Notice and Order to Abate.

City Code Section 7.5.906: APPEALS: A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site.

2. Background:

The property is a single-family residential home zoned PUD/HS (Planned Unit Development) that only permits single-family residential uses. The zone district does allow for the operation of a permitted, owner-occupied, short-term rental. The Short-Term Rental Permit STR-0933 is issued to Ian Kallenbach, not the current owner, 1425 Winding Ridge Terrace LLC, as listed with the El Paso County Assessor. The short-term rental license issuance date is August 8, 2020 and would expire August 8, 2021 had the property not transferred ownership. The original permit was issued prior to the City Code being adopted that prohibited non-owner-occupied short term rentals in single-family residential zone districts.

The following code regulations explain the reason for the notice of violation.

§7.5.1702: SHORT TERM RENTAL UNIT PERMIT REQUIRED (FIGURE 4)

It shall be a violation of this part for the owner or short-term rental tenants to fail to comply with the following rules and regulations:

B. The short-term rental unit permit does not run with the property, but is issued to the specific owner of the property. The permit shall expire upon sale or transfer of the property. The permit shall not be transferred or assigned to another individual, person, entity, or address but may be managed by a third party on behalf of the owner.

Staff believes that the Notice and Order to Abate meets the criteria as set forth in City Code.

3. Conformance with the City Comprehensive Plan:
Not applicable to a notice and order
4. Conformance with the Area's Master Plan:
Not applicable to a notice and order

STAFF RECOMMENDATION:

CPC AP 21-00036 - APPEAL OF NOTICE AND ORDER TO ABATE

Deny the appeal and uphold the Notice and Order to Abate violation issued against 1425 Winding Ridge Terrace on March 10, 2021, based on the finding that the appeal does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.1. and 7.5.1007.