

1403 MESA AVE SHORT TERM RENTAL PERMIT APPEAL

Planning Commission January 14, 2026

Staff Report by Case Planner: Tamara Baxter



Quick Facts

Appellant

Tabitha Hardison

Property Owner

Tabitha Hardison and William Hardison

Address / Location

1403 Mesa Ave

TSN(s)

7436206003

Zoning and Overlays

Current: R-E (Single-Family-Estate)

Site Area

27,300 SQ.FT.

Proposed Land Use

Short Term Rental

Applicable Code

UDC

Council District

3

Project Summary

This is a request to appeal the administrative decision to deny an Owner-Occupied Short Term Rental Permit for a property that has an existing permitted ADU, located at 1403 Mesa Ave Colorado Springs, CO 80906-3118.

File Number	Application Type	Decision Type
APPL-25-0009	Appeal	Quasi-Judicial

Background

Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Reannexation of Southwest Annex Area (Ordinance 80-171)	January 1, 1980
Subdivision	The Cooper Court Resubdivision of Lots 4, 5, 6, 7, Block 8, except for the westerly 15'	September 27, 1923
Master Plan	N/A	N/A
Prior Enforcement Action	N/A	N/A

Site History

The property consists of two structures. Two single family residential detached units, one which is located above a detached garage. The subject site, located at 1403 Mesa Avenue, is zoned R-E (Single-Family-Estate). In accordance with the El Paso County Assessors website, the property consists of two residential structures. One of the residential units is located above a detached garage, which is the subject of the proposed Short Term Rental permit.

Surrounding Zoning and Land Use

Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	R-E (Single-Family-Estate)	Single Family Detached	N/A
West	R-E (Single-Family-Estate)	Single Family Detached	N/A
South	R-E (Single-Family-Estate)	Single Family Detached	N/A
East	R-E (Single-Family-Estate)	Single Family Detached	N/A

Zoning Map



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	In accordance with City Code Section 7.5.406, public notice (mailed postcards only) was provided for the Planning Commission public hearing.
Postcard Mailing Radius	1000'
Number of Postcards Mailed	112
Number of Comments Received	None

Timeline of Short Term Rental Application

Initial Submittal Date 11/06/2025

Permit Denial Notification 11/17/2025

Short Term Rental Permit Application (A-STRP-25-0988)

Summary of Application

The Short Term Rental (STR) Permit application was reviewed under UDC (Unified Development Code). After evaluation of the STR permit application by City Staff, it was determined that the application did meet the criteria for an STR. Nonetheless, City Planning Staff issued a denial due to the adopted ADU (Accessory Dwelling Unit) ordinance which states that an STR cannot be approved, after June 30, 2025, if a legally permitted ADU exists on a subject property on which a STR permit is being requested.

Below is a timeline of the STR Permit application:

- a. **November 6, 2025** – Owner-Occupied Short Term Rental Application received from property owner
- b. **November 17, 2025** – Short Term Rental Permit Application denied due to the ADU on property.
- c. **November 20, 2025** – APPL-25-0009 received by Appellant

Application Review Criteria for an Owner-Occupied Short Term Rental Permit Application

In accordance with Chapter 7, Section 7.3.301.C (Short Term Rental) *“the purpose and intent of the Short Term Rental Permit is to facilitate the permitting of Short Term Rental subject to appropriate restrictions and standards and to allow for varied accommodations and experiences for visitors while retaining the character of residential neighborhoods.”*

Per UDC Section 7.3.301.C.3-5 (Short Term Rental), STR Permit is necessary in order to operate a STR. Once issued, an STR does not run with the property, but is issued to the specific property owner and will expire upon sale or transfer of the property. A permit cannot be transferred or assigned to another person, individual, entity or address. The permit can be managed by a third party on behalf of the property owner. STR permits are valid for one year from the date of issuance and may be renewed each year.

Upon submitting an STR permit application, new or renewal, the application is reviewed in accordance with the review criteria:

- a. *The sleeping quarters for Short Term Rental tenants shall not be in nonresidential areas within buildings or accessory structures (e.g., shed, garage, etc.) that do not contain finished living space; in commercial or industrial spaces such as retail stores or warehouses; outdoors (e.g., tent, etc.); or in a recreational vehicle.*

The Appellant met this criterion, as the intent was to rent what is referred in the STR permit application as an existing ADU located above the detached garage.

- b. *The maximum number of units that may be used as Short Term Rental is as follows:*
 - (1) *For properties with up to four (4) dwelling units, one (1) unit within each lawful dwelling unit on a property, up to a maximum of four (4) Short Term Rentals per property.*

The Appellant met this criterion. The application states 1-bedroom with a maximum occupancy of four.

(2) *For multi-family buildings held in common ownership, each owner shall be limited to two (2) Short Term Rentals per property. Entities under common control shall be considered a single owner for the purpose of evaluating ownership of dwelling units.*

- c. The owner shall obtain a Sales Tax license from the City Sales Tax Office and shall not be indebted or obligated in any manner to the City.*
- d. The owner shall maintain weekly residential trash collection services and comply with Section [6.4.104](#) (Preparation for Collection) of this Code.*
- e. The owner shall maintain and provide proof of property liability insurance in the amount of not less than \$500,000 or provide proof that property liability coverage in an equal or higher amount is provided by any and all hosting platforms through which the owner will rent the Short Term Rental. Proof of liability insurance is not required if Short Term Rental reservations are handled exclusively by hosting platforms (websites) that extend liability coverage of not less than \$500,000 under terms acceptable to the Manager.*

The Appellant met this criterion. A copy of their State Farm Umbrella Policy which meets the minimum liability coverage was provided with the application.

- f. The owner shall not be classified as a repeat offender or a chronic repeat offender pursuant to Section [7.5.907](#) (Penalties) and shall not have had a Short Term Rental Permit revoked within the preceding two (2) years.*

The Appellant met this criterion. There are no noted offenses, and this is the first short term rental application filed with the City by this Appellant.

4. *Location Requirements:*

- a. Except as provided in Subsection c below, no non-owner occupied Short Term Rental shall be located within five hundred (500) feet of another non-owner occupied Short Term Rental.*
- b. Except as provided in Subsection c below, no non-owner occupied Short Term Rental shall be located in the R-E, R-1 9, or R-1 6 zone districts or single-family PDZ districts.*

The Appellant applied for an Owner-Occupied Short Term Rental Permit, this does not apply.

- c. Where an owner occupied Short Term Rental is owned by an active duty military service member whose permanent duty station is within El Paso County, the Manager shall waive the requirements in Subdivisions a and b above for the owner for up to one (1) year if the service member receives orders to report to a temporary duty station outside of El Paso County.*

This criterion is not applicable.

5. *Operating Requirements: All Short Term Rental owners and tenants shall comply with the following rules and regulations:*

- a. All short-term tenants shall comply with all applicable noise, housing, public health, fire, and safety ordinances of the City.*
- b. Parking in private driveways shall be used first, with overflow parking on the street where permitted. Parking on-site in non-driveway areas (i.e., front yard areas, parkways, and rear yards) shall be prohibited.*

- c. *No meals shall be prepared for or served to the short-term tenants by the owner or the owner's agents.*
- d. *Use of the Short Term Rental for any commercial or large social events or gatherings, such as weddings, is prohibited.*
- e. *The Permit with all local contact information and emergency safety information shall be prominently displayed within the Short Term Rental.*
- f. *The City issued Short Term Rental Permit number shall be used in all rental marketing materials.*
- g. *During the term that a Short Term Rental is occupied by a short-term tenant, the owner or the local contact person designated by the owner shall be available at all times for the purpose of responding within one (1) hour to complaints regarding the condition or operation of the Short Term Rental or the conduct of short-term tenants. If the local contact person designated by the owner changes, the owner shall update the permit on file within three (3) days.*

The Appellant met this criterion. Emergency contact information was provided with the application.

- h. *Maximum overnight occupancy of a Short Term Rental shall be limited to two (2) occupants per bedroom, plus an additional two (2) occupants per dwelling unit. The maximum overnight occupancy per dwelling unit shall be fifteen (15) occupants.*

The Appellant met this criterion. The application states 1-bedroom with a maximum occupancy of four.

7.3.304: ACCESSORY USES:

An amendment to the UDC related to Accessory Dwelling Units (ADUs) was approved by City Council on April 8, 2025 (Ordinance 25-45). As part of this code change related to ADUs, it was determined that if a property has both a legally permitted ADU and a legally permitted short-term rental on or before June 30, 2025, both could continue as non-conforming uses. However, after June 30, 2025, an STR permit could not be applied for if there was a permitted ADU on the property.

“d. Where an ADU is constructed on a property, the principal structure, ADU, and any other building or structure on that property shall not be used as a short-term rental. Notwithstanding the foregoing, should a property have both a legally permitted ADU and a legally permitted short term rental on or before June 30, 2025, said ADU and short term rental may continue as nonconforming uses in accord with Section [7.5.804](#) until such time as the uses change, the short term rental permit expires, is withdrawn, or is otherwise terminated, or as otherwise required by Code.”

During the initial research into the STR permit application, it was determined by staff that the proposed reference ‘ADU’ in the STR permit application materials was permitted as an ADU, thus the property was not eligible for a STR Permit under the Ordinance No. 25-45 guidelines. The STR Permit was denied by staff (refer to “Attachment 1 – Denial of STR Permit _A-STRP-25-0988 email”).

Appeal

Summary of Appeal

On November 10, 2025, the Appellant filed an appeal of the administrative decision. This appeal request was received within the 10-day appeal window in accordance with UDC Section 7.5.415.A.4.

Per City Code Section (UDC) 7.5.415.A (Appeals), an affected party aggrieved by a decision on an application may appeal this decision. The review criteria for a decision on an appeal is set forth in City Code Section (UDC) 7.5.415.A.2, as follows (following directly pulled from UDC):

2. *Notice of Appeal*

a. *The notice of appeal shall state:*

- (1) *The specific provision(s) of this UDC that is the basis of the appeal; and*
- (2) *Which of the following criteria for reversal or modification of the decision is applicable to the appeal:*
 - (a) *The decision is contrary to the express language of this UDC; or*
 - (b) *The decision is erroneous; or*
 - (c) *The decision is clearly contrary to law; and*
- (3) *Describe how the criteria for the relevant application have or have not been met.*

b. *A recommendation to City Council to approve an application shall not be the basis for an appeal.*

c. *As a preliminary matter, the body hearing the appeal may choose to vote on the sufficiency of the appeal to determine if the appeal has met the requirements of this Subsection. Upon a finding of insufficiency by a majority of the body hearing the appeal, the appeal shall be rejected, and no hearing held.*

Appellant has requested an appeal of the administrative denial of Short-Term Rental permit (Record A-STRP-25-0988) for 1403 Mesa Avenue (refer to "Attachment 2 – Notice of Appeal"). As noted previously in this report, staff's decision to deny the STR permit application was based on UDC Section 7.3.304.A.4.d (Accessory Uses-Use Restrictions):

The Appellant submitted an appeal of the administrative decision based on the following:

- Information pertaining to the prohibition of STRs on properties with existing ADUs was not readily available on the City's STR webpage, application materials, nor is Ordinance No. 25-45 referenced.
- The Appellant asserts that the STR permit application was submitted in good faith. The Appellant noted that *"the ADU on my property has existed for decades and predates Ordinance 25-45, which went into effect April 21, 2025 and began enforcement June 30, 2025."*
- The Appellant reports incurring significant costs related to the application and the appeal process.

The Appellant did not meet with City Planning Staff nor the STR Program Administrator prior to submittal of the STR Permit. During the preparation of the appeal to City Planning Commission, the permitting and use of the "ADU" dwelling came into question. The existing single-family structures may qualify as a Non-Conforming Use Additional Single-Family Dwelling, which could allow issuance of an STR permit under applicable UDC provisions. City Staff has requested that the Appellant gather additional documentation with respect to the existing structures on the property to further make an informed determination if the ADU was permitted by the City, and if the denial of the STR was made correctly. The Appellant has been asked to provide additional documentation by January 16, 2026.

Based on the need for additional documentation, City Planning Staff is requesting a postponement of the Appeal application per UDC Section 7.5.415.C.3.b.

- b. *"If new or additional evidence is set forth as the grounds for a request for a postponement, the appeal may be referred to the body that made the appealed-from decision for further hearing and recommendations."*

Statement of Compliance

APPL-25-0009 - 1403 Mesa Ave Short Term Rental Permit Application

Request for a hearing postponement

In accordance with UDC Section 7.5.415.C.3.b (Appeal - Hearing Procedure), City Staff requests a postponement of the hearing for the appeal to the February 11, 2025, City Planning Commission hearing, to allow additional time to further gather supplementary information from the Appellant regarding the structure that is referenced as an ADU in the STR permit application.