



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, January 11, 2017**

I. CALL TO ORDER AND ELECTION OF OFFICERS

A Regular meeting of the Manitou Springs Planning Commission was held in Council Chambers @ 606 Manitou Avenue. Chairman Delwiche called the meeting to order at 6:03pm and declared a quorum present. The following Commission members attended:

PRESENT: Commissioner GLORIA LATIMER
Commissioner JULIE WOLFE
Chair ALAN DELWICHE
Commissioner LORI BURRIS
Commissioner JULIA SIMMONS
Commissioner TIP RAGAN

ABSENT: Commissioner MIKE CASEY (excused)
Vice Chair JEANNE VROBEL (excused)

STAFF: Wade Burkholder, Planning Director
Michelle Anthony, Senior Planner

GUESTS: Coreen Toll, City Council Liaison

ITEM 1. Nominations and Election of Chair

NOMINATION:

Commissioner Wolfe nominated Alan Delwiche to continue serving as the Planning Commission Chair.

SECOND:

Commissioner Burris seconded the nomination.

DISCUSSION:

There was no discussion and no other nominations.

VOTE:

Nomination approved, 5-0. (Commissioner Ragan abstained as he was leaving the Commission.)

ITEM 2. Nominations and Election of Vice Chair

MOTION:

Commissioner Wolfe nominated Jeanne Vrobel to continue serving as Planning Commission Vice Chair.

SECOND:

Commissioner Burris seconded the nomination.

DISCUSSION:

There was no discussion and no other nominations.

VOTE:

Nomination approved, 5-0. (Commissioner Ragan abstained as he was leaving the Commission.)

II. APPROVAL OF MINUTES

ITEM 3. December 14, 2016

MOTION:

Commissioner Wolf moved to approve the December Minutes as submitted.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 5-0. (Commissioner Simmons abstained as she was not present at the December meeting.)

III. NOTICE OF COUNCIL ACTION

ITEM 4. RE 1601 through RE 1611 – Rezoning Open Space Parcels. Mr. Burkholder reported he planned to take the second group of rezoning to City Council at the same time as this group and the date for this had not yet been determined.

Mr. Burkholder noted that Plan Manitou would be coming to the Commission in February for a recommendation to City Council.

Chairman Delwiche reviewed the meeting procedures for everyone present and asked if any Commissioner had Ex Parte Contacts or Conflicts of Interest to declare. Hearing none, the meeting continued.

IV. UNFINISHED BUSINESS

ITEM 5. RE 1612 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Spirea Drive (Schedule No. 7405320012) - City of Manitou Springs, Applicant

ITEM 6. RE 1613 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Peakview Boulevard (Schedule No. 7405445002) - City of Manitou Springs, Applicant

ITEM 7. RE 1614 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Ridge Road (Schedule No. 7405446002) - City of Manitou Springs, Applicant

ITEM 8. RE 1615 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Peakview Boulevard (Schedule No. 7405445004) - City of Manitou Springs, Applicant

ITEM 9. RE 1616 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Spirea Drive (Schedule No. 7405320011) - City of Manitou Springs, Applicant

ITEM 10. RE 1617 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Spirea Drive (Schedule No. 7405320010) - City of Manitou Springs, Applicant

ITEM 11. RE 1618 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Spirea Drive (Schedule No. 7405320009) - City of Manitou Springs, Applicant

ITEM 12. RE 1619 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Columbine Drive (Schedule No. 7405320015) - City of Manitou Springs, Applicant

ITEM 13. RE 1620 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Columbine Drive (Schedule No. 7405319017) - City of Manitou Springs, Applicant

ITEM 14. RE 1621 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Crystal Valley Road (Schedule No. 7409101078) - City of Manitou Springs, Applicant

ITEM 15. RE 1622 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 Oak Place (Schedule No. 7409202040) - City of Manitou Springs, Applicant

ITEM 16. RE 1623 - Rezoning (Hillside Low Density Residential to Open Space – Public Hearing) – 0 El Paso Boulevard (Schedule No. 7404303056) - City of Manitou Springs, Applicant

Ms. Anthony presented the Staff Report regarding these requested dated January 6, 2017.

Ms. Simmons asked if the rezoning to Open Space were consistent with the POST plan and was that plan online. Staff noted that they were consistent with the Parks and Open Space master plan and that document was posted on the City's website.

Chair Delwiche asked if there were any further questions for staff. Hearing none, the meeting was opened for public comment. Hearing no public comment, the Public Hearing was closed.

MOTION:

Commissioner Ragan moved to forward a recommendation for approval of **RE 1612, RE 1613, RE 1614, RE 1615, RE 1616, RE 1617, RE 1618, RE 1619, RE 1620, RE 1621, RE 1622, and RE 1623** for rezoning 12 parcels on Spirea Drive, Peakview Blvd., Ridge Road, Columbine Drive, Crystal Valley Road, Oak Place and El Paso Blvd, (Schedule numbers 7405320012, 7405445002, 7405446002, 7405445004, 7405320011, 7405320010, 7405320009, 7405320015, 7405319017, 7409101078, 7409202040, and 7404303056) from Hillside Low Density Residential to the Open Space designation with the finding that a public need exists and the use as open space and locations are compatible with adjacent land uses.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

V. NEW BUSINESS

ITEM 17. MaCUP 1701 – Major Conditional Use (Long Term Lodging) – 23 Manitou Avenue – Susie Brock, owner of El Colorado Lodge, Applicant

Planning Director Wade Burkholder presented the staff report dated January 6, 2016.

Commissioner Ragan clarified that per the Staff Report removal of two of three beds in each unit was necessary to meet the living room square footage requirement of the International Building Code (IBC) and asked if this needed to be a condition of the approval. Mr. Burkholder stated he was in support of adding such a condition.

Commissioner Wolfe asked if alterations were made to the units without prior authorization was there still the option to fine the owner per the Code. Staff clarified the fine option was not being removed, however the municipal judge would need to find a violation existed and then render a fine as appropriate.

Commissioner Wolfe asked for clarification related to two sinks needing to be within each unit. Staff explained the Code required a separate sink for cooking from the sink required in the lavatory.

Commissioner Wolfe asked for clarification whether someone could spend the night with regard to only one person being permitted and what happened if someone had a baby; did the baby make the unit overcrowded per the IBC. Staff explained the maximum gross floor area per occupant is 200 square feet and each unit under this request was only 319 square feet in size. Monitoring will be very difficult and the City was not going to be issuing violation letters or citations if the lessee had overnight guests or a lessee had a baby. If however the City learned there were multiple people living in the unit not on the lease or if a small family moved into one of the units, then that was a violation that began to infringe on the health and welfare of the people staying in each unit due to overcrowding.

Chair Delwiche invited Councilwoman Toll to the podium and asked whether the Affordable Housing Task Force was considering the minimums of 220 square feet per occupant and 220 square feet of living room per occupant. Councilwoman Toll said they were looking at legitimate affordable housing units and that many of the existing units were established without any code compliance.

Chair Delwiche stated many tiny houses were not large enough to meet the code requirement. Councilwoman Toll agreed and stated that zoning changes would need to occur to accommodate those units.

Chair Delwiche concluded he was concerned with only one person being allowed to stay in these units.

Hearing no further questions for staff, the applicant was invited to the podium.

Susie Brock, 23 Manitou Avenue on behalf of El Colorado Lodge, said she agreed with the recommendation but saw the problem with someone trying to sneak someone else in. She stated people did this already.

Commissioner Wolfe asked if it was different when dealing with people who aren't on a year-long lease. Ms. Brock answered that she has a soft heart so always lets people get behind on rent payments and needed to monitor weekly renters. In a way not doing the long-term rentals was a relief but she lost 20% of revenues in the last quarter. She provided an example regarding renting to one person recently who actually had a family of four.

Commissioner Wolfe asked Ms. Brock if she could still make one person per each of the units work financially. Ms. Brock provided information on previous rentals for just one person in a unit and said it was financially viable.

Commissioner Latimer asked about the neighborhood notifications. Ms. Brock stated she had mailed a letter to surrounding property owners and provided an opportunity for neighbors to attend an open house at her property. She stated there had been no negative comments.

Commissioner Ragan stated he looked favorably on the application; it was a model application and he would support the request. He stated this was a wonderful property and he was confident it would remain compliant with the code.

MOTION

Commissioner Wolfe moved to forward a recommendation to City Council for approval of Major Conditional Use Permit #1701 for the long term rental of units 4, 5, 9, and 11 at 23 Manitou Avenue (El Colorado Lodge) with the following conditions:

1. Only one occupant is permitted for long term lodging in units 4, 5, 9, and 11 based upon the size of the guest room and the requirements of the International Building Code for efficiency dwelling units.
2. Two of the three beds within units 4, 5, 9, and 11 are to be removed from the unit in order to comply with 4(c) of the staff report (Minimum Size : A living room of 22 square feet per occupant is required)

SECOND

Commissioner Ragan seconded the motion.

DISCUSSION

Commissioner Wolfe confirmed the conditions of approval would need to be met before the rental license would be issued. Staff confirmed all conditions and an inspection of the units would occur before issuance of any license.

VOTE

Motion passed, 6-0.

Chair Delwiche stated this item would be heard by City Council at their first meeting in February.

VI. OTHER BUSINESS

Hiawatha Gardens

Chairman Delwiche noted there were a number of questions which had been directed to the Planning Commission in regard to the Hiawatha Gardens property and a comment that there were Planning Commissioners in favor of demolition.

Commissioner Ragan noted he had spoken with the Mayor before there had been any public process or research on the building and, at that time, was not opposed to demolition. However, he knew a lot more information now.

Commissioner Latimer stated she was initially in favor of demolition but now knew more about the property. She felt she was neutral – she understood the need for parking but also understood the need to preserve historical facilities.

Commissioner Burris stated the City could do both – provide parking and preserve the historical building.

Commissioner Ragan asked if there was space to do both a parking garage and keep the existing building. Chairman Delwiche stated this was feasible.

Commissioner Ragan noted there had been recent comments in the paper about businesses wanting to get rid of the neighborhood parking program, which would be terrible for his street (Grand Avenue). He felt the City needed to look at a parking garage instead of taking action that would affect the residential areas. He didn't know whether a structure would even be recommended at the Hiawatha location and there were different opportunities for this kind of improvement, but suggested the City needed to be pro-active instead of reactive in regard to parking.

Commissioner Wolfe stated the City should look at the cost effectiveness of different sites for a parking garage. In the long run the preservation of historic structures was a service to future generations and businesses. More demolition meant less reason to come to Manitou Springs. She stated multi-level parking was more efficient in the use of land.

Council Liaison Toll remarked Councilman Randy Hodges was the President of the Metro District, which owned the Wichita Parking Lot and the District was working on a plan to deck that lot. She also noted the URA Plan for the eastern end of Manitou Avenue also included a possible parking garage in that area.

Commissioner Ragan asked if constructing a parking garage on the Canon Avenue lot was being considered. Ms. Anthony noted this had been looked at a number of years ago and that lot was too small to be feasible for a structure; other lots would be better to consider parking structures on.

Commissioner Wolfe asked how the existing parking lot at the Hiawatha property compared. Ms. Anthony noted the existing lot in back of the building was larger than the Wichita Parking lot.

Council Liaison Toll stated it made sense to have a structure at that location. Commissioner Ragan asked if there was room for both the building and a parking structure. Council Liaison Toll stated she believed so, but the City Council had not been focused on that until the Hiawatha Report was received.

MOTION

Commissioner Ragan moved to forward a recommendation to the City Council to encourage it to explore multi-level parking on various properties and on the Hiawatha property as long as the building remained and the historic features on the inside and outside were preserved.

SECOND

Commissioner Wolfe seconded the motion.

DISCUSSION

There was no discussion regarding the motion

VOTE

Motion passed, 6-0.

VII. ADJOURNMENT

Hearing no further business, Chair Delwiche adjourned the meeting at 7:10pm

Minutes prepared by Michelle Anthony, Senior Planner

**CITY OF MANITOU SPRINGS
MEMORANDUM**

DATE: February 2, 2017

TO: Planning Commission

FROM: Michelle Anthony, AICP
Senior Planner

SUBJECT: Review and Recommendation to City Council Regarding Amendment of the Zoning Code to Regulate Adult or Sexually Oriented Businesses

Discussion regarding regulating adult or sexually-oriented business has occurred on and off for many years, but regulations have never progressed to adoption.

The currently proposed code was drafted in 2010 by the City Attorney to assist the City in regulating these businesses. This was not referred for discussion until last July, when the City Council met in worksession regarding the proposed code amendments. Staff determined it was time to bring the code forward now in order to move to adoption before unregulated operations open in Manitou Springs.

Please note the City cannot legally ban this type of business from operating anywhere within its boundaries and cannot make the restrictions such that it would be impossible for a business to locate within the City. To do so would not meet legal requirements and open the City to court challenge. These businesses can be limited and directed where they can locate and it is the intent of the proposed regulations to do this.

The draft code provides for:

- Section 1: Adds a new Chapter 5.86 to Title 5 of the Municipal Code which addresses business licenses and regulations. This section defines the kinds of businesses the code regulates and places requirements on them.
- Section 2: Amends the “Commercial” zone district in the Zoning Code to allow location only within this district, require issuance of a Major Conditional Use, provides distance separation requirements from certain uses and areas and between sexually oriented businesses, restricts public displays, and requires a Business License per the regulations in Section 1.
- Section 3: Adds a section to the Public Peace, Morals and Welfare section of the Municipal Code which addresses prostitution and gambling

Several questions were posed by one Councilperson after the July 2016 Worksession, which Staff has passed along for potential Commission discussion and so that these, and other questions that will arise, are captured and addressed as the code goes through the review process. These are:

- All the “Whereas” statements refer to “adverse secondary effects” of sexually oriented businesses. The stated court actions seem to be based on these adverse secondary effects. Is it a safe assumption that there are documented, quantified data on these effects and not just an “I’d rather not be exposed to this” attitude driving these actions? (*Staff assumes that the court cases would be based on something other than people’s personal attitudes, but this information can be more fully addressed by the City Attorney.*)
- Section 5.86.050 mandates background investigations. Do we need to state what would disqualify an applicant and employees; i.e. child porn, sex trafficking, registered sex offender? (*The next code section – 5.86.050.8. states “The applicant or any of its directors, officers or partners has been convicted of a specified crime in the two (2) years preceding the date of the application.” The terms specified crime is defined as “...following crimes committed under the penal or criminal code of any municipality, county, state or country: sex crimes against children; sexual abuse; sexual assault; possession or distribution of child pornography; distribution of an illegal controlled substance; prostitution, promotion of prostitution or pandering; and organized crime if such organized crime is committed within the premises of a sexually oriented business in the City or elsewhere.*)
- 5.86.060 – have we set a fee schedule for application? (*The Major Conditional Use application fee has been set at \$500. The fee for this type of business license will need to be set and staff would recommend something commensurate with the Recreational Marijuana Licensing, which is \$5000 for initial and renewal licenses.*)
- 5.86.100.C. prescribes daily cleaning, or more frequently when necessary. Is this intimating that this is a dirty business? Do we require this of other businesses? Food service? Seems to me they could be getting singled out for unusual requirements. (*Staff does not believe the City places cleaning requirements on other businesses. Perhaps, instead of removing from these regulations, the City should be looking at requiring this for other businesses?*)
- 5.86.110 seems to be regulating what sounds like a strip club. Is that the intent? I am not in favor of allowing strippers within this business. (*This City Attorney will need to address this question. However Staff believes this falls into the category of “you have to allow it somewhere/you can’t prohibit it overall.” So if we don’t allow or don’t address, then we are open to legal challenge and could end up having to allow where we really don’t want to.*)
- 5.86.140.B. Do we need to include rented videos and DVDs in this section? (*Although rental of DVDs is not as popular or prevalent a business as it was 5-10 years ago, Staff believes this would be a good upgrade to the Code.*)
- 5.86.180. Confused on what is/isn’t allowed in this section. (*This section exempts a store where sales of sexually oriented materials amounts for less than 10% of its revenue as long as the materials are available in a private, controlled area. Staff wonders if this is mandatory to meet a legal requirement and, if so, could this be controlled by area within a store rather than revenue – which might be easier for the City to regulate. It also appears the exemption allows a business in the Downtown to incorporate sexually oriented materials for sale. Would or should other restrictions on display, etc., be applicable?*)

Also sex education offered through a tax-supported “college, junior college, or university” is exempt from regulation. Staff wonders why all public education institutions offering sex ed would not be exempted?)

- 5.86.200. Is the municipal court judge good with the proposed fines? *(It isn't usual for the City to confer with the judge in regard to fines. The City Attorney advises on what level of fines are legal according to state or federal limitations based on the kind of violation (misdemeanor, felony, etc.)*
- 5.86.200 Section 2: D.1. Can we exclude these businesses from the Downtown Zone? *(Note the code does restrict these operations to the Commercial zone, which effectively excludes them from the Downtown.)*
- 5.86.200 Section 2: D.2.c. Do we need a definition of the types of promotional displays that are harmful to minors? *(Staff would ask the City Attorney to provide information on whether there is a standard for this that could be incorporated into the code?)*

There are sure to be more questions and comments from each of you, and from Staff, as the proposed regulations continue to be reviewed. Staff looks forward to the discussion and encourages each Commissioner to bring comments, questions and edits to the meeting.

ORDINANCE

AN ORDINANCE ADOPTING A NEW CHAPTER 5.86, AMENDING SECTION 18.08.060, AND REPEALING AND REENACTING CHAPTER 9.12 OF THE MANITOU SPRINGS MUNICIPAL CODE CONCERNING SEXUALLY ORIENTED BUSINESSES

WHEREAS, the City Council finds and determines that sexually oriented businesses produce adverse secondary effects on the public health, safety and welfare;

WHEREAS, such adverse secondary effects include increased rates of certain crimes, including prostitution, robbery, assault, theft, loitering, pandering and public intoxication, the spread of sexually transmitted diseases, the debasement of both men and women, a decrease in property values for surrounding properties, and noise, parking and traffic problems;

WHEREAS, such adverse secondary effects occur most often in the areas immediately surrounding such businesses;

WHEREAS, the City Council, in enacting this ordinance, expressly relies on the findings of the 10th Circuit Court of Appeals in *Z.J. Gifts D-2, LLC v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998), *reversed on other grounds* at 311 F.3d 1220 (10th Cir. 2002), *reversed* at 541 U.S. 774 (2004), and *Essence, Inc. v. City of Federal Heights*, 285 F.3d 1272 (10th Cir. 2002), concerning the adverse secondary effects of sexually oriented businesses on communities in Colorado and elsewhere;

WHEREAS, the City Council, in enacting this ordinance, expressly relies on the findings of the United States Supreme Court in *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002), *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), and *Boos v. Barry*, 485 U.S. 312 (1988), concerning the adverse secondary effects of sexually oriented businesses on surrounding areas; and

WHEREAS, to reduce the adverse secondary effects caused by sexually oriented businesses in the City, the City Council deems it appropriate and necessary to amend its current regulations and to adopt new regulations for sexually oriented businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Title 5 of the Manitou Springs Municipal Code is hereby amended by the addition of a new Chapter 5.86, which shall read as follows:

**Chapter 5.86
Sexually Oriented Businesses**

5.86.010 Purpose.

The purpose of this Chapter is to promote and protect the public health, safety and welfare by regulating sexually oriented businesses through the establishment of reasonable and uniform regulations to reduce the adverse secondary effects of sexually oriented businesses within the City. This Chapter is not intended to limit or restrict the content of any communicative materials, including sexually oriented materials. This Chapter is not intended to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or Article II, § 10 of the Colorado Constitution or to

deny access of distributors or exhibitors of sexually oriented entertainment to their intended market. Finally, this Chapter is not intended to condone or legitimize the distribution of obscene material.

5.86.020 Definitions.

For purposes of this Chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

“Adult arcade” means any commercial establishment in which the public is permitted or invited where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by five (5) or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

“Adult store” means any commercial establishment which, as one of its principal business purposes, offers for sale or rent for any form of consideration one or more of the following: (1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

“Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

“Adult motion picture theater” means a commercial establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

“Adult theater” means a theater, auditorium or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

“Convicted” means having been found guilty by a judge or a jury or entering a guilty plea or a plea of *nolo contendere*, and includes deferred judgments, deferred sentences, deferred adjudications and plea bargains, whether or not an appeal of such conviction is pending; excluding any conviction overturned or vacated by appeal or other force of law.

“Employee” means a person who works or performs work or service in or for a sexually oriented business on a full-time, part-time or contract basis, with or without compensation, regardless of whether such person is designated as an employee, independent contractor, agent, volunteer or any other status; excluding any person on the premises for repair or maintenance of the premises or for delivering or removing tangible personal property to or from the premises.

“Licensed premises” means the building or structure in which a licensed sexually oriented business is operating.

“Sexually oriented business” means an adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State of Colorado engages in approved and recognized sexual therapy.

“Specified anatomical areas” means any of the following: (1) human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified crime” means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: sex crimes against children; sexual abuse; sexual assault; possession or distribution of child pornography; distribution of an illegal controlled substance; prostitution, promotion of prostitution or pandering; and organized crime if such organized crime is committed within the premises of a sexually oriented business in the City or elsewhere.

“Specified sexual activities” means any of the following:

1. Fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy;
3. Masturbation, actual or simulated; or
4. Human genitals in a state of sexual stimulation or arousal; human excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (4) hereof.

5.86.030 License required.

All sexually oriented businesses in the City shall be licensed as set forth in this Chapter, and it shall be unlawful for any person to operate a sexually oriented business in the City without a valid license issued pursuant to this Chapter.

5.86.040 License application.

A. Applicants for a sexually oriented business license shall submit a written application to the City Clerk which includes the following:

1. The name, address, telephone number and date of birth of the applicant and, if applicable, each of its officers, partners, directors and registered agents;
2. The trade name of the applicant and copies of all documents recording the trade name, including the trade name affidavit;
3. The name of any other sexually oriented business in which any officer, director or partner has a financial interest;
4. The address of the premises to be licensed;
5. If the applicant is a corporation, copies of the articles of incorporation, bylaws and last annual report;

6. Copies of documents demonstrating that the applicant has a legal right to possession of the premises to be licensed;
7. A sketch, drawing or diagram drawn to scale and showing the configuration of the premises, including total floor area to be occupied by each sexually oriented business; and
8. The type or types of sexually oriented business proposed, such as an adult store, adult cabaret, adult theater or adult motion picture theater.

B. Each application shall be verified and acknowledged to be true by the applicant or the managing partner, president or other officer having the authority to sign for the applicant.

5.86.050 Background investigations.

A. Upon receipt of a completed application, the City Clerk shall perform a background investigation of the applicant and its officers, directors and partners, and the information contained in the application.

B. The City Clerk may investigate any fact related to any of the criterion set forth in this Chapter that may be relevant to determine the eligibility of the applicant for a sexually oriented business license.

C. The City Clerk may seek and obtain the assistance of law enforcement agencies in conducting the background investigation.

D. The background investigation shall be completed within forty-five (45) days of receipt of the completed application.

5.86.060 Issuance or denial.

A. Within ten (10) days of the completion of the background investigation, the City Clerk shall either issue the sexually oriented business license or issue a written statement of denial. The license or statement of denial shall be sent via United States mail, postage prepaid, to the applicant at the address provided on the application. The City Clerk shall issue the license unless one or more of the following is true:

1. The applicant has not paid all required fees under this Chapter;
2. The applicant or any of its officers, directors or partners is under eighteen (18) years of age;
3. The applicant is not qualified to conduct business under applicable state or federal law or City ordinances;
4. The applicant has knowingly provided false information to the City on an application for a sexually oriented business license;
5. The location of the proposed sexually oriented business does not comply with the location requirements set forth in the City's zoning ordinance;
6. The premises in which the sexually oriented business is proposed to be located does not comply with applicable City ordinances, such as the building code, electrical code or fire code;
7. The applicant is delinquent in the payment of any taxes owed to the City; or
8. The applicant or any of its directors, officers or partners has been convicted of a specified crime in the two (2) years preceding the date of the application.

B. Within ten (10) days of the date of a written statement of denial, the applicant may submit a written request that the City Clerk schedule a public hearing before the City Council on the application. The hearing shall be held at the next regularly scheduled City Council meeting occurring at least ten (10) days after receipt of the written request.

C. At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the applicant's eligibility for a sexually oriented business license.

D. At the conclusion of the hearing or within ten (10) days thereafter, the City Council shall either order that the City Clerk issue the sexually oriented business license, or issue a written order denying the application for the sexually oriented business license.

E. If the City Council denies the application for a sexually oriented business license, the City Council's decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

5.86.070 Term of license; renewal.

A. All sexually oriented business licenses issued under this Chapter shall be valid for one (1) year from the date of issuance, unless revoked or suspended as provided in this Chapter.

B. Written application for renewal of a sexually oriented business license shall be filed with the City Clerk at least sixty (60) days prior to the expiration of the current license, together with the applicable annual license fee. If no application for renewal is timely filed, the licensee has waived its option to renew the license and must re-apply for a new license.

C. Applications for renewal shall include the same information as an original application, except as the City Clerk deems redundant.

D. The procedures for renewal license applications shall be the same as the procedures for new license applications.

5.86.080 License nontransferable.

A sexually oriented business license issued under this Chapter is nontransferable. By way of example but not limitation, a new sexually oriented business license shall be required upon: the sale, lease or sublease of the sexually oriented business or the licensed premises; the transfer by sale, exchange or similar means of a controlling interest in the sexually oriented business; or the establishment of a trust, gift, or similar legal device which transfers ownership or control of the sexually oriented business or the licensed premises, other than transfer by bequest or other operation of law upon the death of the person possessing ownership or control.

5.86.090 Suspension and revocation.

A. The City Clerk may suspend or revoke any sexually oriented business license issued under this Chapter if the City Clerk receives reliable information to establish that:

1. A nuisance is being maintained on the licensed premises;

2. The licensed premises are unsanitary as certified by the El Paso County Department of Health;
3. The licensed premises are unsafe as certified by the City's building official, the fire marshal or the fire chief;
4. The licensee has knowingly permitted on the licensed premises: the possession, sale or use of illegal controlled substances; any specified sexual activity; or prostitution;
5. The licensee or any of its officers, directors, partners or employees has been convicted of a specified crime during the term of the license; or
6. The licensee knowingly provided false information on an application for a sexually oriented business license or renewal of such a license.

B. At least twenty (20) days before the City Clerk suspends or revokes any sexually oriented business license, the City Clerk shall provide written notice to the licensee, via United States mail, postage prepaid, to the address provided on the most recent application, of the allegations supporting the suspension or revocation.

C. During the twenty (20) day period, the licensee may file a written request for a stay of the suspension or revocation pending a public hearing before the City Council on the allegations to support the suspension or revocation.

D. The public hearing shall be held at the next regularly scheduled City Council meeting at least ten (10) days after receipt of the request.

E. At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the suspension or revocation.

F. At the conclusion of the hearing or within ten (10) days thereafter, the City Council shall order that the sexually oriented business license be suspended for a period of time not to exceed one hundred eighty (180) days, or that the license be revoked, or that no action be taken with respect to the license.

G. If the City Council orders suspension or revocation, the City Council's decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

5.86.100 General regulations.

A. All licensed premises shall comply with all applicable City regulations and ordinances, including but not limited to the building code, fire code, electrical code and zoning regulations.

B. Every sexually oriented business license issued under this Chapter shall be displayed in a conspicuous place on the licensed premises in a clear cover or frame, and shall be available for inspection at all times by the public.

C. All licensed premises shall be maintained in a clean and sanitary condition, and shall be cleaned at least once daily and more frequently when necessary.

D. Trash and garbage shall not be permitted to accumulate in any licensed premises or on the property outside any licensed premises.

E. All materials, devices and novelties offered by a sexually oriented business which depict specified sexual activities or specified anatomical areas shall be displayed so that they cannot be seen by anyone other than customers who have entered the licensed premises.

5.86.110 Dance and entertainment requirements.

A. An adult cabaret or adult theater at which employees dance shall have one or more stages or similar structures specially designed for dancing, which shall be constructed in accordance with applicable building code regulations, and located inside the licensed premises. Employees shall dance only upon such stage or structure.

B. When an employee dances on a structure which is designed to hold not more than two (2) persons, the structure shall be level, of sturdy construction and securely fastened to the floor or wall during dance performances. Steps and handrails shall be required on all such stages and structures where the platform on which the employee dances is more than eight inches (8") above the surface upon which the structure rests.

C. Any adult cabaret or adult theatre shall have one or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage, and the stage shall be fixed and immovable.

D. No seating for the audience shall be permitted within three feet (3') of the edge of any stage, and no members of the audience shall be permitted upon any stage or within three feet (3') of the edge of any stage.

5.86.120 Lighting requirements.

A. When the occupant capacity of any licensed premises, as determined by the fire department, is at least fifty persons, such licensed premises shall have electric, battery-operated emergency lights using reliable storage batteries properly maintained and charged.

B. The interior portion of a licensed premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2) foot-candles as measured at the floor level. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

5.86.130 Hours of operation.

It is unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises on any Monday through Saturday between 2:00 a.m. and 7:00 a.m.; and on any Sunday between 2:00 a.m. and 8:00 a.m.

5.86.140 Age restrictions.

A. It is unlawful for a licensee to admit or permit the admission of any person under eighteen (18) years of age into any sexually oriented business.

B. It is unlawful for any person to sell, barter, give, or offer for sale, barter or gift, to any person under eighteen (18) years of age any service, material, device or thing sold or offered for sale by any adult store or adult motion picture theater.

C. Employees of any sexually oriented business shall be at least eighteen (18) years of age.

5.86.150 Conduct.

A. No licensee or employee shall encourage or knowingly permit any person on or within the licensed premises to touch, caress or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

B. No licensee or employee shall knowingly fail to immediately report to the police department any criminal conduct or violation of any City ordinance or state or federal law, rule or regulation that occurs on or within the licensed premises.

C. No person shall engage in specified sexual activities on or within a licensed premises.

D. No licensee or employee mingling with patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical area.

E. No employee shall receive tips from patrons except as provided herein. A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for employees shall be placed by patrons into the tip box. The licensee shall post one or more signs to be conspicuously visible to patrons in letters at least one inch (1") high to read as follows: "All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited."

5.86.160 Inspection.

Every licensee shall permit law enforcement officers and any other federal, state, county or City agency in the performance of any function connected with the enforcement of this Chapter and normally and regularly conducted by such agency, to inspect the licensed premises for the purpose of ensuring compliance with this Chapter, at any time the licensed premises is occupied or open for business.

5.86.170 Employee Identification.

Each licensee shall provide to the City Clerk, in writing, the full name, any aliases, date of birth, and the current address and telephone number of every employee of the licensee within five (5) days of employment.

5.86.180 Exemptions.

Notwithstanding anything to the contrary in this Chapter, the following businesses and activities shall be exempt from the requirements of this Chapter:

1. Any adult store which derives less than ten percent (10%) of its gross income from the sale of materials depicting specified sexual activities or specified anatomical areas, if such materials are located in a separate room or booth containing those materials only.

2. Any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas.

5.86.190 Regulations not exclusive.

Nothing contained in this Chapter shall limit the effectiveness or applicability of any other provision of this Code to any sexually oriented business.

5.86.200 Penalties.

A. It shall be unlawful for any person, corporation or other entity to violate any provision of this Chapter, and any such violation shall be subject to a fine not to exceed nine hundred ninety-nine dollars (\$999.00) and imprisonment for a period not to exceed one hundred eighty (180) days, or both such fine and imprisonment, provided that no person under the age of eighteen (18) years of age shall be subject to imprisonment. Each and every day of violation of the provisions of this Chapter shall constitute a separate offense punishable as such.

B. In the event of violation of any of the terms and regulations set forth herein, the City may obtain equitable relief, including injunctive relief, to require compliance with the provisions hereof. In the event the City is successful in obtaining injunctive or other equitable relief, the costs and attorney fees incurred by the City in such action shall be awarded to the City in addition to any other relief.

C. Nothing contained herein shall preclude the City from enforcing the suspension and revocation provisions of this Chapter in addition to simultaneously or subsequently prosecuting alleged violations of this Chapter under this Section.

Section 2: Section 18.08.060 of the Manitou Springs Municipal Code is hereby amended by the addition of a new subsection D, which shall read as follows:

D. Sexually oriented businesses.

1. Notwithstanding that conditional uses are allowed in all zone districts, sexually oriented businesses shall only be located within the Commercial Zone district, subject to the **major** conditional use requirements and procedures outlined in Chapter 18.30 of the Code.

2. The following regulations shall apply to sexually oriented businesses:

- a. Sexually oriented businesses shall be located a minimum of **five hundred** feet from any:
 - i. Area zoned for residential use;
 - ii. Single-family or multifamily dwelling;
 - iii. Church, public park, or library;
 - iv. State-licensed day care facility;
 - v. School or educational facility serving persons under eighteen years of age; or
 - vi. Any other sexually oriented business.

b. The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. Distance between any sexually oriented business and any church, school, public park, dwelling or residential district shall be measured in a straight line, without regard to intervening structures, from the nearest portion of the structure used for the sexually oriented business to the nearest property line of the church, school or dwelling, or the nearest boundary of the public park or residential district.

c. Sexually explicit advertisements or other promotional displays for sexually oriented businesses that are harmful to minors shall not be visible to minors from pedestrian ways, walkways or other public areas.

d. Sexually oriented businesses shall obtain a license pursuant to Chapter 5.86 of the Code as a condition of approval for a conditional use permit.

Section 3: Chapter 9.12 of the Manitou Springs Municipal Code is hereby repealed and reenacted to provide as follows:

Chapter 9.12 INDECENT, OBSCENE, OR IMMORAL CONDUCT

9.12.010 Prostitution - Keeping place of prostitution.

It is unlawful for any person to have, or exercise control over the use of, any place which offers seclusion or shelter for the practice of prostitution and to perform any one or more of the following acts:

A. Knowingly granting or permitting the use of such place for the purpose of prostitution; or

B. Permitting the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he or she could reasonably know that the place is being used for purposes of prostitution.

9.12.020 Prostitution - Solicitation.

It is unlawful for any person to solicit another for the purpose of prostitution, or to arrange or offer to arrange a meeting of persons for the purpose of prostitution, or to direct another to a place knowing such direction is for the purpose of prostitution.

9.12.030 Indecent exposure or behavior.

Other than as permitted by Chapter 5.86, no person shall knowingly appear in any public place in a nude state or state of undress such that the genitals or buttocks of either sex or the breast or breasts of a female are exposed.

9.12.040 Gambling prohibited - Seizure of devices.

No person shall play for money or other valuable thing in any game with cards, dice, billiards or with any other article, instrument or thing whatsoever which may be used for the purpose of playing or betting upon or winning or losing any money or any other thing of value nor shall bet upon any game others may be playing. No person shall keep a gambling house or in any building or other place used or occupied by himself or herself or his or her agent, procure or permit any person to frequent or form together to play for

money or other valuable thing at any game nor shall keep or rent any such place for any such purpose. The chief of police may seize or cause to be seized any instrument, device or thing used for the purpose of gambling (or by owning or using such money,) or other property or thing of value which may be lost or won. All such instruments, devices or things shall be demolished or destroyed as the mayor directs.

Section 4: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5: The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 6: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 7: This ordinance shall take effect five (5) days after final approval and adoption on second reading.

Passed on first reading and ordered published this ____ day of _____, 2017.

City Clerk, Donna J. Kast

A Public Hearing on this ordinance will be held at the _____, 2017, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: _____, 2017 (in full)
City's Official Website and City Hall

Passed on second reading and adopted by Council this ____ day of _____, 2017.

Mayor, Nicole Nicoletta

Attest: _____
City Clerk, Donna J. Kast

Published: _____, 2017 _____ (by title if not amended, or in full if amended)
City's Official Website and City Hall

**CITY OF MANITOU SPRINGS
MEMORANDUM**

DATE: February 3, 2017

TO: Planning Commission

FROM: Michelle Anthony, AICP
Senior Planner

SUBJECT: Recommendation to City Council Regarding Revocation of Conditional Use Permit #0709 for Long-Term Rentals at 1126-1132 Manitou Avenue (Ute Pass Apartments) and 1222 Manitou Avenue (Millwheel Apartments)

Recent inspections of these properties have revealed that they have not complied with the approval requirements of the Conditional Use Permit issued in 2007 for conversion of the motels to residential rental of all the existing units on each property.

Attached are the City Council minutes from November 27, 2007, when the Conditional Use Permit was approved for the current owner.

The Code Enforcement Officer Kurt Arnoldussen has provided the following outlines of the actions taken to date to try to obtain compliance on the properties:

Ute Pass Notes

Left VM asking for return call

- 11-18-16 Hand delivered letters requesting inspection to owner in front house of 1222 Manitou Avenue for both Ute Pass and Millwheel; Inspection scheduled for 11-29-2016 at 10:00
- 11-30-16 Hand delivered inspection results to Thomas, detailed Plan of Action needed by 12-14-2016

The following is a list of the violations observed at 1126 Manitou Ave, Manitou Springs, CO

1. 201- No permit for the electrical outside that was completed in 2013
 2. 101- No stove- hot plate being used for cooking
 3. Accumulation of Junk, Trash and Debris on the property –This negatively affects the value and qualities of the surrounding neighborhood.
 4. Units not up to housing code will be upgraded within 36 months of approval of Conditional Use (November 27, 2007 Conditional Use approved).
- 12-14-16 Contacted Thomas at Mill Wheel and he said: Unit 2 has a working stove; renter in unit with the broken shower is moving out, then the shower will be fixed; unit with hot plate will be getting a stove soon; and electrical was done by a licensed contractor and Regional okayed the work.

- 12-21-16 At the 12-20-16 City Council meeting - they did not want to put people on the street in the middle of winter, and it was agreed to inspect all hotel/motels for compliance of the long-term housing ordinance and allow the properties in violation 20 days to submit a Plan of Action and, if a plan is submitted, to allow 120 days to complete the Plan of Action and be in compliance.
- A violation letter will be delivered to the Thomas to allow more time to submit a Plan of Action and avoid displacing anyone in the winter
- 12-27-16 Hand delivered second letter requesting written plan of Action by 01-17-17
- 01-17-17 Thomas Dunn called at 4:30 said he did not have a written plan but has plans for the property and is trying to get the property in compliance. Meeting set for 01-18-17 at 10am at Mill Wheel
- 01-18-17 Met with Thomas who described several ideas he had for the property, Thomas had hand-written several of the ideas down on legal pad and said his printer was out of ink and he will get some more and drop of the requested information soon.

Mill Wheel Notes

- 11-02-16 Left VM asking for a return call
- 11-18-16 Hand delivered letters requesting inspection for both Ute Pass and Millwheel to owner in front house of 1222 Manitou Avenue, Inspection scheduled for 11-29-2016 at 10:00
- 11-30-16 Hand delivered inspection results to Thomas, detailed Plan of Action needed by 12-14-2016

The following is a list of the violations observed at 1126 Manitou Ave, Manitou Springs, CO.

1. 103- No Stove
 2. 104- No Stove
 3. 105- No Stove
 4. 201- No stove
 5. 202- No stove
 6. 205- No stove or extra sink
 7. Accumulation of Junk, Trash and Debris on the property – This negatively affects the value and qualities of the surrounding neighborhood.
 8. Rental leases shall include information on the number, type and license plate number of tenant vehicles and their assigned parking spaces and required any changes to be reported to management immediately. Management shall document such changes and keep these on file.
 9. Units not up to housing code will be upgraded within 36 months. (Conditional Use Permit approved on November 27, 2007)
- 12-14-16 Contacted Thomas at Mill Wheel and he said by the first of the year (01-01-2017) the property will be sold.
- 12-21-16 At the 12-20-16 City Council meeting - they did not want to put people on the street in the middle of winter, and it was agreed to inspect all hotel/motels for compliance of the long-term housing ordinance and allow the properties in

violation 20 days to submit a Plan of Action and, if a plan is submitted, to allow 120 days to complete the Plan of Action and be in compliance.

A violation letter will be delivered to the Mill Wheel to allow more time to submit a Plan of Action and avoid displacing anyone in the winter

- 12-27-16 Hand delivered Second letter requesting Plan of Action to be in compliance of the Conditional Use permit from 2007
- 12-28-16 Posted property for water shut off on 01-10-17, for past due payment
- 01-09-17 Visited the property and saw unpermitted construction taking in unit 103; Water bill was paid
- 01-10-17 Hand delivered Initial letter for the unpermitted construction in unit 103, compliance date 01-24-17
- 01-17-17 Thomas Dunn called at 4:30 said he did not have a written plan but has plans for the property and is trying to get the property in compliance. Meeting set for 01-18-17 at 10am at Mill Wheel. Thomas said he will continue to own and operate the property
- 01-18-17 Met with Thomas who described several ideas he had for the property, Thomas had hand-written several of the ideas down on legal pad. He said his printer was out of ink and he will get some more and drop of the requested information soon.
- 01-20-17 Thomas stopped by wanting to find a way to avoid sprinklers said he has a meeting with a sprinkler company 01-25-17
- 01-25-17 Michelle Francis called said she is a part owner and wanted to know what she needs to submit. She said she will be submitting something by the end of the week.
- 01-26-17 Meet with Thomas at the Mill Wheel, he said he is kicking lots of people out of the property for whatever reason he can find. He said he will be getting about \$400,000 from the insurance company for flood damage. Thomas said he is thinking about making a duplex but is waiting to hear back from the sprinkler company to find out cost.
- 02-03-17 No contact with either owner since 01-26-17

At this point and as evidenced by the above information provided by the City's Code Enforcement Officer, little to no compliance has been achieved by the property owner. Mr. Dunn has had more than nine years to make upgrades and changes in order to comply with the Conditional Use Permit approval and minimum housing code standards.

Staff recommends the Planning Commission forward a recommendation to Council supporting the revocation of Conditional Use Permit #0709 for Long-Term Rentals at 1126-1132 Manitou Avenue (Ute Pass Apartments) and 1222 Manitou Avenue (Millwheel Apartments). Staff further suggests a finding that the properties are out of compliance with the Conditional Use Permit approval and the housing code and as such, it is in the interests of public health, safety and welfare that the permit be revoked.

COUNCILWOMAN FEDER MOVED AND COUNCILMAN SNYDER SECONDED THE MOTION TO APPROVE CU 0709 – CONDITIONAL USE (LONG-TERM RENTALS) – 1126 – 1132 & 1222 MANITOU AVENUE (UTE PASS AND MILLWHEEL APARTMENTS) – THOMAS DUNN, APPLICANT WITH THE FOLLOWING CONDITIONS:

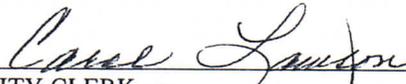
1. The Conditional Use approves long-term residential dwelling units within the commercial zoning district. The approval includes 15 units at the Ute Pass and 11 units at the Millwheel. An increase in the number of rental units requires an amendment to this conditional use.
2. The on-site parking layout as shown on the site plans will be maintained to include a minimum of 12 spaces at the Ute Pass and 14 at the Mill Wheel.
3. An on site or local property manager is required. The owner will provide contact information for the property manager to the City Planning Department and will update that information annually at the time of rental license renewal.
4. Rental leases shall include information on the number, type and license plate number of tenant vehicles and their assigned parking spaces and require any changes to be reported to management immediately. Management shall document such changes and keep these on file.
5. Copies of the current tenant leases shall be provided annually for the Rental License renewal. An updated spreadsheet summarizing tenant and vehicle information as provided for the Conditional Use application shall also be provided at Rental License renewal.
6. Units not up to housing code will be upgraded within 36 months.

AND THE FOLLOWING FINDINGS:

- A. That the value and qualities of the neighborhood surrounding the conditional use will not be substantially injured and the proposed use, under the conditions imposed, has no impact on the character of the community and is compatible in function and design with surrounding land uses.
- B. That the conditional use is consistent with the intent and purpose of the Zoning Code to promote public health, safety and general welfare.
- C. That the conditional use is consistent with the Rainbow Vision/Comprehensive Plan of the City.

MOTION PASSED, 5-0.

With no further business to conduct Mayor Morland concluded this Special Meeting.


CITY CLERK


MAYOR AND CITY COUNCIL

Minutes Prepared by: Janie Nuci