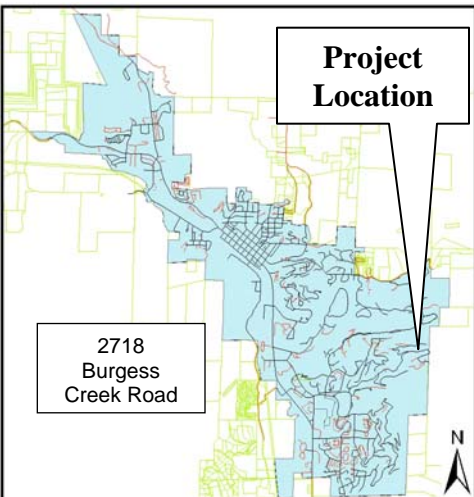


DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT STAFF REPORT

PLANNING COMMISSION AGENDA ITEM # 6	
Project Name:	Rendezvous Trails, Filing 1, Lot 27 (Henderson VHR-Cleftstone Chalet) #DP-09-06
Prepared By:	Bob Keenan, Senior Planner (Ext. 260)
Through:	Tom Leeson, Planning Services Director (Ext. 244)
Date:	January 5, 2010
Planning Commission (PC):	January 14, 2010
City Council (CC):	February 2, 2010
Zoning:	Residential Neighborhood 1(RN-1)
Applicant:	David & Emily Henderson, 2718 Burgess Creek Road, Steamboat Springs, CO 80487
Request:	A Development Plan application for a Conditional Use to operate a Vacation Home Rental.



Development Statistics – Overview	
Lot Area:	22,651 square feet (.52 acres)
Unit Size:	1,370 square feet

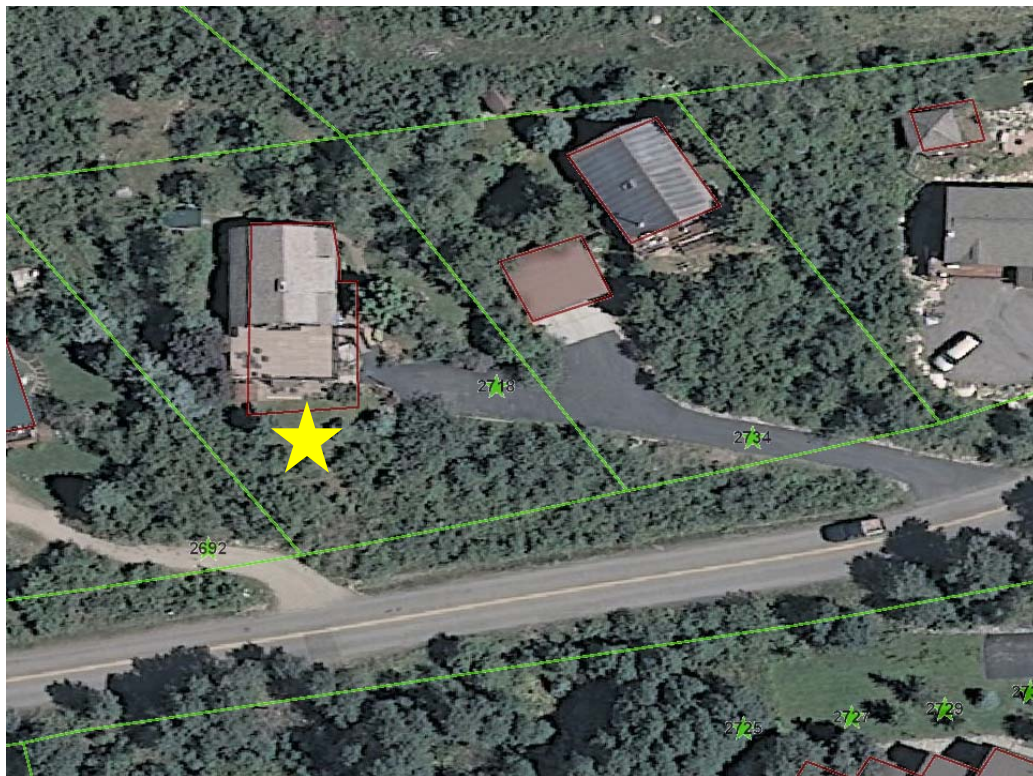
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I. COMMUNITY DEVELOPMENT CODE (CDC) – STAFF ANALYSIS SUMMARY

CDC - SECTION 26-65 (D): NO DEVELOPMENT PLAN SHALL BE APPROVED UNLESS THE PLANNING COMMISSION AND CITY COUNCIL FIND THAT THE PLAN MEETS ALL OF THE FOLLOWING CRITERIA:					
Subsection		Consistent			Notes
		Yes	No	NA	
1)	Conformity with Community Plan	<input checked="" type="checkbox"/>			
2)	Consistency with Surrounding Uses	<input checked="" type="checkbox"/>			
3)	Minimize Adverse Impacts	<input checked="" type="checkbox"/>			
4)	Access		<input checked="" type="checkbox"/>		
5)	Minimize Environmental Impacts	<input checked="" type="checkbox"/>			
6)	Phasing			<input checked="" type="checkbox"/>	No Phasing
7)	Compliance With Other Standards		<input checked="" type="checkbox"/>		
8)	Variance Criteria			<input checked="" type="checkbox"/>	No Variance Requests

Staff Finding: Staff Finds that the Development Plan for Rendezvous Trails Subdivision, Filing 1, Lot 27 for a Conditional Use Vacation Home Rental is NOT CONSISTENT with the Criteria for Approval for a Development Plan.

.... (Detailed policy analysis is located in Section V; Staff Findings and Conditions are in Section VII)



II. BACKGROUND

The Vacation Home Rental (VHR) Ordinance was significantly changed by City Council in July of 2007. This new ordinance created additional requirements above and beyond what had previously existed in the Community Development Code (CDC). The ordinance does not in any way consider existing Vacation Home Rentals to be “Grandfathered”. It explicitly states, “*If an existing Vacation Home Rental cannot satisfy the criteria set forth in the Ordinance, the Owner may apply for approval of a Conditional Use.*” Every existing and operating Vacation Home Rental was required to be in conformance with current regulations as of April 30, 2008. The Vacation Home Rental Regulations are included as Attachment I.

Section 26-92 of the CDC states: “*Conditional uses are those uses that are generally in keeping with the purpose and intent of that zone district, yet may have more impacts to surrounding properties and the community than uses by right or uses with criteria. Such uses require approval pursuant to section 26-65, and conditions may be placed upon these uses as deemed appropriate by the approval body, in order to avoid or mitigate potential impacts. The listing of a conditional use in a particular zone district does not ensure approval of that use or any associated development plan.*”

The proposed Vacation Home Rental has previously operated as a legal VHR prior to the adoption of the new ordinance but now must comply with the new criteria. The previous VHR permit was obtained by the applicant in 2002.

III. PROJECT DESCRIPTION

This application is a request to operate a Vacation Home Rental as a Conditional Use because it does not comply with the criteria for administrative approval of a VHR, specifically, the access easement requirement. The application appears to meet all other VHR criteria for approval.

The Vacation Home Rental Ordinance states the following regarding access:

“*If direct vehicular access from the Property to a public street is not shown on the site plan, the Application must include an Access Easement from the owners of each property over which vehicles must pass to access the Property or otherwise demonstrate that any existing access easement expressly permits access for commercial uses, including Vacation Home Rentals. All Access Easement shall be signed and notarized by the owner or owners of the property or properties granting the Access Easement. It is the intent of this requirement that the Owner must demonstrate that the Owner has permission to use any existing or historical access easement for the increased commercial use created by a Vacation Home Rental over and above normal ingress and egress for residential access.*”

IV. PRINCIPAL DISCUSSION ITEMS

Does the request to operate a Vacation Home Rental without a signed Access Easement as required by the Vacation Home Rental Ordinance meet the criteria for approval for a Conditional Use?

Staff finds that the proposal **does not** meet the criteria to be licensed to operate a Vacation Home Rental at this location without the required Access Easement required by the Vacation Home Rental Ordinance. The ordinance sets required criteria for approval and clearly states that all Vacation Home Rentals Properties must comply with all regulations of the ordinance by April 30, 2008. The ordinance does not allow for “Grandfathering” existing non conforming Vacation Home Rentals.

While Planning Staff is recommending that the Planning Commission not approve this application based upon the current ordinance language, it is important to note that staff has not considered any possible legal issues as part of our recommendation. Possible legal issues include:

1. The applicant had an existing Vacation Home Rental permit prior to the 2007 changes to the ordinance. The intensity of the existing VHR use is not to increase with this application.
2. The current ordinance allowance for existing VHR to apply for a conditional use when they do not meet approval criteria under the new ordinance.

Planning Commission should focus on the current ordinance language and criteria of approval of a Development Plan and not consider the possible legal ramifications as this will be handled by City Council, if necessary.

Please see the applicant’s narrative requesting approval of the proposed Vacation Home Rental. Within this narrative the applicant has stated their case for approval. This is included as Attachment 2.

V. PROJECT ANALYSIS

A) CRITERIA FOR APPROVAL

CDC - Section 26-65 (d): No development plan shall be approved unless the planning commission and city council find that the plan meets all of the following criteria:

The following section provides staff analysis of the application as it relates to key sections of the CDC. It is intended to highlight those areas that may be of interest or concern to planning commission, city council, staff or the public. For a comprehensive list of standards and requirements applicable to this proposal please refer to the CDC or contact the staff planner.

CDC - Section 26-65(d)(1): Conformity with Community Plan

The development plan significantly furthers the preferred direction and policies outlined in the community plan or approved master plans.

Staff Analysis: **Consistent;** The proposed Development Plan can be considered to have merits and deficiencies when analyzed with the Community Plan. The Vacation Home Rental Ordinance was written in part to work towards Goal CD-1 of the Community Plan which states, “*Our Community will preserve its small town character and the image of neighborhoods and the community*”. On the other hand, the proposal furthers Goal ED-1: *Steamboat Springs will have a vital, sustainable, and diverse year-round economy. Policy ED-1.1: Continue to support tourism related land uses, businesses, and marketing.* Taking a liberal interpretation of this criterion, staff finds the proposal to be consistent.

CDC – Section 26-65(d)(2): Consistency with Surrounding Uses

The proposed development shall be consistent with the character of the immediate vicinity of the parcel proposed for development, or shall enhance or compliment the mixture of uses, structures and activities present in the immediate vicinity.

Staff Analysis: **Consistent;** The subject parcel is located in a residential area that consists of single-family, duplex, and multi-family developments. There are a few vacation home rentals in the immediate vicinity of the applicant’s parcel and for that reason staff finds the proposal is consistent with the surrounding uses.

CDC – Section 26-65(d)(3) Minimize Adverse Impacts

The design and operating characteristics of the proposed development shall minimize any adverse impacts on surrounding uses and shall not cause a nuisance, considering factors such as proposed setbacks, planned hours of operation, and the potential for odors, noise, smoke, dust, glare, vibrations, shadows, and visual impacts from the proposed development.

Staff Analysis: **Consistent;** The operating characteristics of the proposed Vacation Home Rental should not have any adverse impacts on surrounding uses if it is operated in accordance with the rules and regulations of the VHR Ordinance.

CDC – Section 26-65(d)(4) Access

Access to the site shall be adequate for the proposed development, considering the width, grades, and capacities of adjacent streets and intersections and the entrance to the site. The adequacy of the facilities provided for any necessary service delivery, parking and loading, and trash removal shall also be considered. When appropriate, public transportation or other public or private transportation services and appropriate pedestrian facilities shall be made available to serve the use.

Staff Analysis: **Not Consistent;** Access to the proposed VHR is via Burgess Creek Road and then a shared driveway between the applicant and the owners of 2734 Burgess Creek Road. The applicant has not been able to come to an agreement with the neighbor in regards to an access agreement for the driveway to the proposed VHR. This is a

requirement of the VHR Ordinance that may be waived through this Conditional Use process.

CDC – Section 26-65 (d)(5) Minimize Environmental Impacts

The proposed development shall minimize its adverse impacts on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.

Staff Analysis: **Consistent;** The proposed use should not create any adverse impacts on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms over and above the current use as a single-family residence. The building and associated improvements that will house the proposed use are existing.

CDC – Section 26-65 (e)(6) Phasing

Staff Analysis: **NA;** No phasing proposed

CDC – Section 26-65 (e)(7) Compliance with other Standards

The proposed development shall comply with all other applicable requirements of this CDC, including article V, development standards.

Staff Analysis: **Not Consistent;** The proposed VHR does not comply with the VHR Ordinance requirement for a shared access agreement over the shared driveway. It appears that the applicant complies with all other standards. It is important to note that the access agreement requirement can be waived through this application process.

CDC – Section 26-65 (e)(8) Variance criteria

Staff Analysis: **NA;** No variance requested

VI. STAFF FINDING

Staff finds that the Development Plan for Rendezvous Trails Subdivision, Filing 1, Lot 27 requesting approval to operate a Vacation Home Rental is NOT CONSISTENT with the Criteria for Approval for a Development Plan.

Recommended Motion

The Development Plan, # DP-09-06 is not consistent with the required criteria for approval of a Development Plan.

VII. ATTACHMENTS

Attachment 1 – Vacation Home Rental Regulations

Attachment 2 – Applicant’s Narrative

Attachment 3 - Site Plan

Sec. 26-88. Vacation home rental.

(a)*Purpose.* After a number of public hearings during which the use of residences as "Vacation Home Rentals" was the subject of spirited and often contentious debate, the city council has concluded that it is necessary to repeal and readopt the rules and regulations concerning Vacation Home Rentals to more adequately comply with the pertinent stated policies of the city council, which are to "make decisions and recommendations based on research, facts, and careful listening, taking into consideration short-term and long term goals, competing community interests, and using measurable evaluation criteria whenever possible." It is the intent of the city council in adopting these new rules and regulations to acknowledge and reconcile the sometimes conflicting "purposes" of the Community Development Code ("CDC") set out in section 26-1 of the CDC, which include to "preserve existing neighborhood character" (subsection 26-1(11)) and to "foster the city's resort, business and other economic bases" (subsection 26-1(16)). To that end, the city council desires to eliminate those uses that are more closely associated with commercial, resort uses, such as hotels, inns, lodges and bed and breakfast residences, which adversely affect existing neighborhood character, but to license, regulate, and foster those uses that are more residential in nature, which are compatible with existing neighborhood character, but which complement the city's resort, business and other economic bases.

(b)*License.* To operate as a Vacation Home Rental, the Owner of the Property must file an Application with the city's planning and community development department. Applications shall be reviewed as applications for approval of a Use with Criteria. Vacation Home Rentals that cannot satisfy the criteria set forth herein may apply for conditional use approval per the provisions of subsections 26-92(b)(3) and 26-65 of the City's Municipal Code. Notwithstanding anything to the contrary set forth in this chapter, no part of this Vacation Home Rental licensing procedure, including without limitation, the submittal requirements, fee, criteria, prohibited activities, etc., shall apply to the RR residential resort zone districts, including the RR-1 and RR-2 subdistricts.

(c)*Submittal requirements .*

- (1) Complete application signed by the Owner.
- (2) "Proof of ownership", as set out in section 26-64 of the Municipal Code.
- (3) "Site plan" containing:
 - i. Written or graphic scale;
 - ii. North arrow;
 - iii. Existing zone district;
 - iv. Perimeter outline of interior and exterior lot lines;

- v. Location of site improvements including but not limited to structures, driveways, and trash enclosures;
 - vi. Location and dimension of parking areas.
- (4) A Floor Plan;
 - (5) If direct vehicular access from the Property to a public street is not shown on the site plan, the Application must include an Access Easement from the owners of each property over which vehicles must pass to access the Property or otherwise demonstrate that any existing access easement expressly permits access for commercial uses, including Vacation Home Rentals. All Access Easement shall be signed and notarized by the owner or owners of the property or properties granting the Access Easement. It is the intent of this requirement that the Owner must demonstrate that the Owner has permission to use any existing or historical access easement for the increased commercial use created by a Vacation Home Rental over and above normal ingress and egress for residential access.
 - (6) The names and mailing addresses for all properties within three hundred (300) feet of any boundary of the Property.
 - (7) A statement by Owner that Owner has read the recorded covenants that apply to the subdivision in which the Property is located.
 - (8) Copies of currently valid city and state sales tax licenses in the name of the Owner or the Property Management Company.
 - (9) The name and address and contact information including a 24-hour contact phone number for the Property Management Company managing the Property; or, if there is no Property Management Company, the name, address, and contact information, including a 24-hour contact phone number, or a resident of the City of Steamboat Springs, which may be the Owner of the Property, who can be contacted in the event of an emergency.
 - (10) An acknowledgement that the Owner, Property Management Company, and agent of the Owner, if any, have read all regulations pertaining to the operation of a Vacation Home Rental.
 - (11) The Owner shall sign and certify the accuracy of the information submitted and agree to comply with all regulations. If there is a Property Management Company or other agent of the Owner managing the Vacation Home Rental, the other agent or an authorized officer of the Property Management Company, or both, shall also sign and certify the accuracy of the information submitted and agree to comply with all regulations.

(d) *Definitions.* The following words and phrases shall have the definitions and meanings set forth below. They shall be capitalized to indicate their special definitions. If any of the words or phrases are defined elsewhere in this Code, and there is a disagreement as to their intended meaning, the definitions and meanings set forth in this section shall control the Vacation Home Rental Chapter.

- (1) *Application* shall mean the application for a Vacation Home Rental License, which shall be a form approved by the city's planning services department.
- (2) *Access Easement* shall mean an easement in favor of the Owner and the Property over the property of another necessary to provide access to the Property. Access Easements must expressly acknowledge that the Property will be used for commercial purposes either by reference to the Vacation Home Rental use or by a description of such use.

- (3) *Complete Application* shall mean an Application that has satisfied all of the submittal requirements set forth in this Vacation Home Rental Chapter and otherwise complies with all of the criteria required for the issuance of a Vacation Home Rental license.
- (4) *Director* shall mean the Director of Planning Services for the City.
- (5) *Floor Plan* shall mean a dimensioned level by level plan of the Property labeling all enclosed spaces within the structure, including without limitation, all Sleeping Rooms.
- (6) *Owner* shall mean the titled owner of the residence for which a Vacation Home Rental license is sought or has been issued. The Owner may be a natural person or any business entity recognized by the State of Colorado. If the Owner is a business entity it must be registered with the Colorado Secretary of State.
- (7) *Parking Spaces* shall mean areas with a width of no less than nine (9) feet and a length of no less than eighteen (18) feet located either within designated garages or on surfaces designed for the parking of motor vehicles such as asphalt or concrete. Parking spaces shall not include spaces located on grass or other landscaped areas.
- (8) *Property* or *Vacation Home Rental Property* shall mean the residence to be used as a Vacation Home Rental.
- (9) *Property Management Company* shall mean the Owner's agent for renting the Property, if any.
- (10) *Short Term Rentals* shall mean "the use of a single-family or duplex residential dwelling unit by visitors in return for payment on not more than two (2) occasions per year with a combined total of not more than thirty (30) days annually", together with other use criteria as set forth in section 26-402 of the Steamboat Springs Municipal Code entitled "Definitions and use criteria."
- (11) *Sleeping Room* shall mean any room that has a bed, bunk beds, daybed, or other furniture for sleeping, including, without limitation, a roll out couch or futon. To be a valid Sleeping Room the Sleeping Room shall comply with all pertinent building code regulations, including, without limitation, exit requirements, ceiling height requirements, and window requirements.
- (12) *Use With Criteria* shall mean the land use approval process contained in section 26-64 of the City's Municipal Code; provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in section 26-64 and the process and requirements set out in this Vacation Home Rental Chapter, the terms and conditions in the Vacation Home Rental Chapter shall control.
- (13) *Vacation Home Rental* shall mean the rental of a single-family home or duplex to a single party of related persons or un-related persons known to one another, without the Owner residing in the single family home or duplex, for periods of time not to exceed twenty-nine (29) consecutive days; provided, however, Short Term Rentals (a defined term in the Steamboat Springs Municipal Code) shall not be regulated by this chapter nor shall the use of a Property licensed as a Vacation Home Rental be regulated by this chapter during periods when the Property is used solely for personal use by the Owner. These regulations shall not prohibit an Owner living in a secondary unit from using the principal unit as a Vacation Home Rental or an Owner living in one-half of an undivided duplex from using the other half of the duplex as a Vacation Home Rental.
- (14) *Valid Objection* shall mean an objection based on:
- i. The Owner's failure to file a Complete Application; or

- ii. The Owner's failure to meet any of the required criteria for the issuance of a Vacation Home Rental License; and
- iii. The objection is filed by an owner, or by someone authorized by the owner, of a property within three hundred (300) feet of any boundary of the Property.

(e)*Public notice.* SPO notice, and property posting in accordance with section 26-51.

(f)*Effective date of license .* The license shall be issued by the Director no sooner than fifteen (15) days after the completion of the notice to the surrounding property owners, provided that (a) the Director has notified the Owner that the Application is complete prior to providing the Notice to the Surrounding Property Owners and (b) a Valid Objection to the issuance of the License has not been filed with the Director. If a Valid Objection is filed prior to the Director issuing the license, the Director shall schedule a hearing with the city council for the purpose of determining whether to issue the license or not. The Director, after consultation with the city manager and the city attorney shall decide any dispute as to whether or not there is a Valid Objection to the issuance of the license. A final decision by the Director that there is no Valid Objection may be appealed to the district court under Rule 106(a)(2) of the Colorado Rules of Civil Procedure.

(g)*Fee.* The application fee shall be five hundred dollars (\$500.00) and the annual renewal fee shall be fifty dollars (\$50.00) per Sleeping Room to offset the cost to the city to process, administer, and monitor the operation of Vacation Home Rentals. In no event shall the initial fee and annual renewal fee provide a sum greater than the cost incurred by the city to administer the provisions of this Vacation Home Rental Chapter.

(h)*Term of License .* The License shall be valid for one year and may be renewed upon the payment of the annual renewal fee. The Owner shall amend the Application at the time of annual renewal in the event there is any change in circumstances that would require an update to the information submitted by the Owner. By way of example and not limitation, a change in circumstance would be change of ownership of the Property, any modification to the premises, including any changes to the Floor Plan or the site plan, or number of Sleeping Rooms, any changes of Property Management Company, or any change in 24-hour contact information. At the time of renewal, the Owner, Property Management Company, or other agent of Owner shall specify the number of civil penalty violations incurred within the preceding 12-month period, together with any other convictions for conduct described in subsection (1)(3) of this chapter.

(i)*Additional criteria :*

(1) There shall be a minimum of two (2) Parking Spaces. No more than four (4) vehicles may be parked overnight on the Property outside of garages. No parking shall be permitted in public rights of way or Access Easements.

(2) The maximum number of guests staying at the Property shall be one per two hundred (200) square feet of net floor area, as that term is defined in section 26-402 of the Community Development Code, up to a maximum of sixteen (16).

(3) The Owner or Property Management Company, or other agent of Owner shall (i) mail to the party signing any rental agreement or reserving the Property a copy of all

Vacation Home Rental rules and regulations within ten (10) days of reserving the Property; and (ii) shall prominently display on the Property all of the rules and regulations pertaining to Vacation Home Rentals.

(4) Each Vacation Home Rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

- a. The name of the Property Management Company, agent, local contact person, or Owner of the Property, and a telephone number at which that party may be reached on a 24-hour basis;
- b. The maximum number of occupants permitted to stay in the Property;
- c. The maximum number of vehicles allowed for the occupants of the Property and that all allowed vehicles must be parked on the Property;
- d. The number and location of all on-site parking spaces and the parking rules for seasonal snow removal;
- e. The trash pick-up day and notification of all rules and regulations regarding trash removal, including without limitation, when trash may be left out and that bear-proof containers must be used.

(5) The Owner shall include in all advertising a reference to the Owner's Vacation Home Rental license number.

(6) The Owner shall assure that the occupants and/or guests of the Vacation Home Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding Vacation Home Rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the Owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.

(7) The Owner shall, upon notification that occupants and/or guests of his or her Vacation Home Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this Code or state law pertaining to noise, or disorderly conduct, prevent a recurrence of such conduct by those occupants or guests.

(j) Prohibited Activities:

- (1) Outdoor sleeping.
- (2) Any outdoor activity at which more than twice the number of allowed occupants (see subsection (i)(2), above) are in attendance.
- (3) Tents or other outdoor structures, whether deemed temporary or permanent.
- (4) Commercial kitchens approved as such by the Routt County Department of Environmental Health.
- (5) The preparation of any food on site for persons other than the allowed occupants and the allowed guests (see subsection (2), above)
- (6) There shall be no employees of the Owner or the property management company living in the Property; provided, however, if the property has a secondary unit, this section does not restrict who the Owner may have as a tenant.
- (7) Advertising the Property for any prohibited use.

(k) Inspection . If the Director has reasonable grounds to believe that the information provided in the Application is inaccurate, has become inaccurate, or that prohibited

activities are occurring at the Property, the Director may require an inspection of the Property on 24-hour advanced notice to the Owner, Property Management Company, or other agent or local contact person for the Owner.

(l) Violations and penalties :

(1) The following conduct shall constitute a violation for which the penalties specified in subsection (2) of this section shall be imposed:

- i. The Owner, Property Management Company, or other agent of Owner has signed an Application, which, at the time of signing, was substantively incorrect;
- ii. The Owner, Property Management Company, or other agent of Owner has failed to comply with any of the additional criteria set forth in section (i);
- iii. The Owner, Property Management Company, or other agent of Owner has conducted, permitted, or allowed any of the prohibited activities set forth in subsection (j) to occur on the Property.

(2) The penalties for violations specified in subsection (1) of this section shall be as follows:

- i. For the first violation within any 12-month period, the penalty shall be two hundred fifty dollars (\$250.00);
- ii. For a second violation within any 12-month period, the penalty shall be a fine of five hundred dollars (\$500.00);
- iii. For third violation and all subsequent violations within any 12-month period, the penalty shall be a fine of one thousand dollars (\$1,000.00);
- iv. Each calendar day there is a failure to comply with additional criteria and each day a prohibited activity takes place may be considered by the municipal court as a separate and distinct violation.

(3) These violations and penalties shall be in addition to any other violations of law that may be charged under the Steamboat Springs Municipal Code, including, without limitation, Noise Pollution (section 7-61 et seq.), Nuisances (section 15-1 et seq.), and failure to pay sales tax.

(4) In addition to the violations and penalties set forth in this section, the city shall be entitled to all other remedies in law or equity, including, without limitation, seeking an injunction in any court of competent jurisdiction.

(m) Procedure for imposition of penalties . Any person with reason to believe that an Owner, Property Management Company, or other agent of Owner has violated any of the provisions of this chapter, he or she may file a complaint with the Steamboat Springs Police Department. After investigation by city staff, if there exists probable cause to proceed with the complaint, the Owner, Property Management Company, or other agent of Owner shall be summoned into Steamboat Springs Municipal Court to answer charges. The standard of proof for any such prosecutions under this chapter (as opposed to the charges referenced in subsection (1)(3) of this chapter) shall be a "preponderance of the evidence" and shall result, upon conviction, in a civil penalty. The provisions of subsection 26-3(d) of the Community Development Code shall not apply to the enforcement of these Vacation Home Rental Regulations.

(n)*Revocation; show cause hearing* . Upon the occurrence of any of the following, the city council shall schedule a hearing requiring the Owner to show cause why the license should not be revoked:

- (1) The imposition of a civil penalty for a third violation within one calendar year;
- (2) At the time of annual renewal, the combination of civil penalties and violations under subsection (1)(3) reported by the Owner, Property Management Company, or other agent of Owner are sufficient, in the discretion of the city manager, to warrant a show cause hearing on revocation of the license.
- (3) A show cause hearing for the revocation of a Vacation Home Rental License shall be conducted by the city council. If, after public hearing, the city council determines that the operation of the described Vacation Home Rental Property has been more detrimental to the existing neighborhood character than it has been beneficial to the community in fostering its resort, business, and economic base, then the license shall be suspended for such period as determined by the city Council. The city council may also revoke the license. Upon revocation, the Owner may not reapply for a Vacation Home Rental license at that location for two (2) years.

(o)*Operating a Vacation Home Rental without a license* . Any Person, including, without limitation, the Owner, a Property Management Company, or any agent or representative of the Owner, violating the provisions of this chapter by operating a Vacation Home Rental without a valid license shall, upon conviction, be guilty of a misdemeanor resulting in the imposition of a fine of one thousand dollars (\$1,000.00) for each day of operation without a license. The Property being operated as a Vacation Home Rental shall not be eligible for a Vacation Home Rental License for two years after conviction. Upon passage of the ordinance creating this "Vacation Home Rental Chapter", any Property operating as a Vacation Home Rental shall have three months to apply for a License without violation of this section.

(p)*Exemptions*. Vacation Home Rental shall be a use by right in the RR resort residential zone districts. Vacation Home Rentals operating in the RR resort residential zone districts shall not be required to obtain a license hereunder and shall not be required to comply with the submittal and operating criteria set forth in subsections (c), (i), and (j).

(q)*Transition rules* . The city council acknowledges that Vacation Home Rentals are currently operating under the rules and regulations adopted in 2001. All existing permitted Vacation Home Rentals shall have until April 30, 2008 to apply for a Vacation Home Rental license under this new Vacation Home Rental Chapter and comply with these new regulations, or, in the alternative, to apply for another use, which, in the opinion of the Owner, is a more appropriate land use designation for their particular business. If an existing Vacation Home Rental cannot satisfy the criteria set forth herein by April 30, 2008 for approval as a Use with Criteria, the Owner may apply for conditional use approval per the provisions of sections 26-92(b)(3) and 26-65 of the City's Municipal Code.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2249, § 3, 6-16-09)
Secs. 26-89, 26-90. Reserved.

Barb Wheeler

From: Emily Henderson [info@cleftstonechalet.com]
Sent: Thursday, August 20, 2009 3:09 AM
To: Barb Wheeler
Cc: davidwhenderson@comcast.net
Subject: VHR License

Dear Barb,

This letter is to notify you that we wish to proceed with an application for a conditional use permit for a Vacation Home Rental, which would have the effect of "waiving the access agreement requirement in the vacation home rental use criteria" (per Dan Foote's letter dated 4/13/09.) According to Dan's letter, approval of this waiver would be permanent, and no consideration will be given in future years to the lack of an access agreement in the annual renewal process.

I would appreciate it if you would forward this letter to Dan Foote for further clarification on this point. Please clarify for us that this permanent approval will be in place for future renewals, regardless of ownership of the house. (ie.) If we sell the house and a new owner continues to renew the permit, we need to know that this waiver will be honored without the expense and neighborhood turmoil of a new public hearing waiver process. Such a requirement would seriously impact our ability to sell the house, and would influence our decision to continue with the application process.

Again, per Dan's letter, it is our understanding that our application for a conditional use permit will be accepted by the Planning Dept. with a \$500 application fee, and the remaining \$1500 fee normally applicable to this type of application will be waived pending Council approval of a request for its waiver.

For the record, I don't believe a public hearing about an exception for our permit is the correct public hearing to pursue. Rather, a public hearing is needed to correct the way the code has overstepped the bounds of its intention. We are a local family, working hard to make our home in Steamboat affordable. Sixteen years ago, after carefully researching properties with rental income potential, we chose an appropriate neighborhood on the ski mountain for a vacation home rental, we have a titled easement (ie. hold title to the driveway access), we live in the home and supervise all guests while they are here, we meet and exceed all the requirements of the code and have for 13 years, even before a code existed. We received a VHR permit without an access agreement in the first permitting process. Now, we are unable to even pursue the standard opportunity to operate a VHR, because in addition to the operational standards required by the code, we are held hostage by the opportunity of our next door neighbors to exercise their philosophical opposition to the commercial growth of Steamboat by using us to "put a stake in the ground." This is an inappropriate use of public policy that resulted from intense political pressure on City Council by a minority group with good connections and deep pockets. It has hurt our family, our neighborhood relationships, and the reputation of Steamboat as I explain our situation to people from around the country who would like to rent from us.

However, it appears that our hands are tied until Council changes the code. Contrary to the accusations we have received, we have not at any time operated in violation of the current code. We advertise our option to provide a short-term rental, and in addition have spent the last year allowing friends and family to use the guest apartment in our home that we formerly used as a rental unit. The use of our home for personal guests is well within our right and outside the realm of public oversight. However, we would prefer to return to our practice of operating a vacation home rental with full advertising and income-producing privileges. We need the business income to maintain our home, and simply allowing friends and family to visit (even if they do offer to leave us a gift to defray our expenses) is not adequate to meet our needs. We would also prefer to return to contributing sales tax dollars to our community and would think that our neighbors would appreciate our return to accountability under VHR code enforcement, should there ever be a nuisance issue.

We are therefore proceeding with this letter of intention. I will call to make an appointment with planning staff next week to review our application materials.

Thank you,
Emily Henderson

08/20/2009

Attachment 2

6-14

