

**Teixeira, Rachel**

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**From:** Bobbi Boerner <bbboerner@gmail.com>  
**Sent:** Wednesday, August 30, 2017 10:27 AM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Rd.

Dear Rachel and Planning Committee ;

It has been brought to my attention by several concerned neighbors that a resident at 9 Upland Rd. has petitioned for a 12 student Daycare /Preschool . I am vehemently opposed to this.

Two weeks ago I filmed a mother bear and two cubs on my kitchen patio contently munching on my viburnum berries. This was at 1PM in afternoon. Bear sightings are often a daily occurrence in this neighborhood.

Several years ago a mountain lion took down a deer in open space next to our home,again in broad daylight. The animal proceeded to lay with the kill for several days in the open --after the lion was finished coyotes moved in . This open space is off Chase Ln. once the site of the Broadmoor Dump,close proximity to Upland Rd.

My point is the location of this home is in the foothills where human/wild animals interface. Encounters exist. This is not a safe environment for a group of preschool children.

This a single family residential neighborhood that has been in existence for years. The resident that moved into 9 Upland knew this. The resident knew the limitation to the number of children. Given the present business climate in Colorado Springs it would be the perfect time for the resident to lease/buy a structure for the establishment and growth of the said School The resident at 9 Upland has a responsibility to this neighborhood,

Thank-you for your time.  
Roberta Boerner  
500 Penrose Blvd.  
Colorado Springs,Co. 80906

**Teixeira, Rachel**

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**From:** Bridget Minihane <bridgetsminihane@yahoo.com>  
**Sent:** Thursday, August 24, 2017 11:24 AM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Rd Public Notice

Dear Rachel Teixeira,

It recently came to our attention that there was a public meeting held on 21 Aug reference a home (9 Upland Rd) in our residential neighborhood becoming a large daycare facility. We are completely opposed to this initiative. We regret not hearing of the meeting prior to its occurrence. We purchased our home on Upland Rd because it is a safe and secluded neighborhood with little to no through traffic. Having a business run in our neighborhood is not something that we support.

Thank you for your consideration in this matter.

V/R,  
Bridget and Neil Minihane  
(719) 640-2606

## Teixeira, Rachel

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**From:** Carol Meyer <carol.meyer3740@gmail.com>  
**Sent:** Monday, August 21, 2017 10:22 PM  
**To:** Teixeira, Rachel  
**Subject:** Broadmoor Montessori International  
**Attachments:** Montessori School letter.docx

Dear Rachel,

Attached is my letter concerning the proposed expansion of the Montessori school at 9 Upland Rd., 80906.

If you have any questions, please feel free to contact me.

I appreciate you offering the surrounding neighbors the opportunity to share our views and concerns.

Carol Meyer  
719-494-9180

August 21, 2017

Rachel Teixeira  
719-385-5368  
[rteixeira@springsgov.com](mailto:rteixeira@springsgov.com)  
30 S Nevada, Ste 105  
Colorado Springs, CO

RE: Broadmoor Montessori International  
9 Upland Rd, 80906

Dear Rachel,

Let me start by saying thank you for offering a forum so that any neighbors living close to the home also known as Broadmoor Montessori International could hear arguments from both sides of the issue concerning the expansion proposal for the school.

I live at 30 Upland Rd., which is just up the street a few hundred feet from the property evaluated. While I believe Sarah Forrester is a very qualified teaching professional, my concern is about the neighborhood that I live in and the safety hazards that this expansion in school occupancy may present and the question as to how this will affect other residents desire to open businesses in the neighborhood.

Given the fact that I live higher up than the Forrester-Ochsner family, I have some reservations about the fact that the Montessori School is located around a blind curve as I drive down the road. The road is also on a decline as I pass by 9 Upland Rd. and there is a concern that children might be running out into the road and an inopportune time. With the increased number of children the risk goes up dramatically, especially during the winter months when the roads are icy.

In addition, my primary concern is the fact that if we allow said expansion we are offering up the opportunity for anyone in the neighborhood to assume they too can open some sort of commercial business in their home in Broadmoor Heights. I moved into this neighborhood with the intent to live in a neighborhood devoted to single family dwellings. In my closing documents during the buying of our home at 30 Upland Rd. produced by the Land Title Guarantee Company, it specifically states BOOK 1982 PAGE 735 I. Restrictions: 1. The above described property shall be used for private residence purposes only, and ..." That states very clearly to me that our homes were meant for residential usage only.

Why an FCC home is not considered a commercial property is beyond me. If someone is using their home as a school or daycare and being paid to do so, this constitutes a commercial business from a common sense standpoint. How the FCC received a designation for a premises to be non-commercial simply because it is used for a Human Service does not make logical

sense. Especially when you look around and see all the schools that are deemed commercial and occupy commercial property.

In addition to the above stated safety concerns regarding the street mentioned above, another concern that was not adequately addressed at the meeting is how will the owner of the school respond to things such as a fire emergency. Do they have the appropriate transportation and drivers for all the children should a fire erupt suddenly and the need to evacuate be eminent?

Because we live in a fire mitigation area, this is a real risk and could present some real problems unless the situation has been fully addressed by the people running the school.

These are the concerns of both myself and my husband, Chris. As a result, we vote not to grant the Conditional Use Permit to the owners of 9 Upland Rd. 80906.

Sincerely,

Carol Meyer  
30 Upland Rd  
Colorado Springs, CO 80906  
719-494-9180  
carol.meyer3740@gmail.com

## Teixeira, Rachel

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**From:** Charles Johnston <johnst21@comcast.net>  
**Sent:** Tuesday, August 22, 2017 5:38 PM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Rd land development application

Dear Planning Commission this eMail is to formally protest allowing a large home daycare center at 9 Upland Rd. Colorado Springs CO 80906.

My wife and I have lived at 21 Upland Rd. for 23 years and have enjoyed the privacy and quiet of the neighborhood. This proposed expansion of the present small 6 person daycare center to 12 person combination daycare center/Montessori school is unacceptable to me and the majority of the neighbors for the following reasons; Broadmoor Hights is classified as a strictly residential area, Upland Rd., is the main feeder road into this neighborhood and is a narrow, winding road that is shaded and therefore icy in winter and quite dangerous for the traffic that presently travels it daily. To add as many as twelve cars parking to let children off in the mornings and picking them up in the afternoon will truly congest Upland Rd.and make it a hazard for all involved.

It is my belief that this action will also reduce the neighborhood's real estate value, I can't imagine anyone making a decision to purchase an expensive property next to a school, no matter the size of the school.

Finally to move into a residential neighborhood and try to establish a commercial business, although the proprietor denies it being commercial, is pure selfishness, no consideration whatsoever for her neighbors.

Charle D. Johnston 21 Upland Rd.

**Teixeira, Rachel**

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**From:** dana tucker <danaltucker25@yahoo.com>  
**Sent:** Thursday, August 31, 2017 5:50 PM  
**To:** Teixeira, Rachel; Dana Tucker  
**Subject:** Broadmoor Montessori International  
**Attachments:** Epson\_08312017164604.pdf

Let me know if the attached letter does not come through. Thank you. Dana Tucker

Sent from Yahoo Mail for iPhone

To Whom It May Concern:

My son Aiden started at Broadmoor Montessori International in January of 2017. I am a stay at home mom with one child. This school came highly recommend by another mother with a son very close in age to Aiden. We enrolled Aiden at Sarah Forrest's school after meeting with her and touring her amazing set up. This Montessori preschool gives my son individualized attention, a natural playscape and outdoor classroom to foster a love for the outdoors which I believe is so important. There are too many children these days that sit inside and spend hours in front of the television playing video games, and watching shows. If this school was not around we would not be able to afford to send our son to preschool. They offer an affordable tuition rate in conjunction with a generous military discount that allows us to offer this incredible experience to our son. This school allows my son to learn, develop, and have consistent interaction with other children his age. This exposure is invaluable.

I know that expanding the class size slightly has brought up some concerns in the neighborhood. My husband and I take your concerns to heart every day that we bring our son to school. I personally make sure to drive slowly and cautiously during drop off and pick up to ensure the safety of ourselves and others on Upland Road. We always park in the drive way as to not block any of the traffic traveling down the road at any given time. When leaving the school, we use our backup cameras to ensure the safety of ourselves and the other drivers on the road. We are aware that the school is located in an area dense with wildlife. Our family lives on the westside of Colorado Springs as well. We have complete confidence in the school's plans that they have in place for any number of situations that could arise (wildlife, fire, etc.) In addition, approving the permit to allow (7-12) children allows other families the opportunity to experience the amazing learning opportunity this preschool has to offer. Sarah and the Broadmoor Montessori International school is like a second home to my son. Their philosophy and structure has had such a positive influence on my son! Sarah is consistently looking for ways to improve our experience and be mindful of those in the neighborhood such as staggered drop off times and bringing our son to the car at pickup to prevent a traffic jam. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Dana L. Tucker". The signature is written in a cursive style with a large, sweeping initial "D".

Dana L. Tucker



## Teixeira, Rachel

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**From:** Debra Chase <chasedeb@netzero.net>  
**Sent:** Tuesday, August 29, 2017 10:13 AM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Rd - Conditional Use Permit

8/29/17

To:  
Rachel Teixeira

From:  
Debra Chase  
4 West Point Rd.  
719-648-0353

RE: Conditional Use Permit for large home daycare for 9 Upland Road

Rachel, I attended the meeting on August 21 and voiced my opinion on this issue. I am opposed to allowing the Conditional Use Permit for 7-12 children.

My husband and I walk our dogs on Upland Rd. I have a concern for our safety due to increased traffic on this narrow road. At the current level of six children, some parents' park on the street for drop off/pick up. This street is narrow, has no sidewalks and 9 Upland Rd. sits below a blind curve. When cars are parked on the street and someone is coming downhill it is difficult to get out of the way of the oncoming traffic. In winter this street is icy and snow is slow to melt...which makes a dangerous situation for those using the street.

Frankly, if I was a parent, I would want to park on the street rather than in the driveway at 9 Upland Rd. By doing so I wouldn't have to back out into the street below the blind curve.

I also experience a loss of use/enjoyment of my quiet residential neighborhood. When walking my dogs I have altered my route after seeing cars parked on the street at 9 Upland Rd. (especially in the winter). I do not see a reason to bring increased traffic into the neighborhood...above the current limit of six children.

I believe this neighborhood has already experienced a great increase of traffic on Penrose Blvd. and Mesa Rd. due to the Broadmoor Seven Falls' busses and vans. This definitely has caused a loss of use/enjoyment of the neighborhood streets. I used to walk my dogs on Penrose/Mesa and have already altered my walking routes to avoid those streets. We may also experience more traffic issues once the Broadmoor develops Strawberry Fields. I realize that the Broadmoor traffic issues don't directly relate to the proposed use permit at 9 Upland Rd. However, it points out the sensitive nature of additional increased traffic in Broadmoor Heights and our desire to preserve the peaceful enjoyment and safety of our neighborhood.

Thank you for your consideration.

## Teixeira, Rachel

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**From:** Ed Sullivan <efsulli@comcast.net>  
**Sent:** Wednesday, August 23, 2017 12:28 PM  
**To:** Teixeira, Rachel  
**Subject:** Request for conditional use Variance 9 Upland Road

I attended the Neighborhood meeting concerning the conditional use development request to allow a " Large home daycare for up to 12 children" at 9 Upland Road. I completely OPPOSE this request. Our neighborhood, since its inception, has been a peaceful quiet entirely single family residential area. I doubt that any resident is aware that apparently a daycare or School could move in right next door. I think any permit that would allow this should be revoked. She should have selected another area of town to establish her " Broadmoor Montessori International School. Her request would only benefit her and increase her income at the expense of all her neighbors.

Our neighborhood consist of:

1. Beautiful quiet single family homes
2. Relatively narrow winding streets
3. Steep hills
4. Blind curves
5. No sidewalks with heavy vegetation limiting walking to the side of the street
6. Very heavy tree cover
7. A higher mountain elevation resulting in heavier snow fall
8. The combination of heavy snow fall, generally north facing hill sides, and tree shaded narrow streets results in snow and ice packed streets for a significant amount of the time creating very dangerous driving conditions.
9. Many residents walk our streets daily and are very concerned about the traffic and wildlife
10. The area is inhabited by deer, bear, bob cats, and mountain lions. Adults have to be vigilant much less children
11. The Broadmoor International School is located at 9 Upland ..... just below a blind curve, on a steep north facing location, with no sidewalks, no place for residents to walk except in the street, and in an entirely single family neighborhood.

Wow this doesn't sound like the right place to approve a a Large home daycare ( which is actually a International School) !!!

The consequences of approving this request will result in increased traffic, parking, congestion, increased noise, reduced safety for the residents, and significantly reduced property values for our neighborhood. These factors must be considered and honored.

The residents who bought their homes in good faith deserve to continue to be able to enjoy living in a peaceful, quiet and safe neighborhood ..... which would be severely compromised by by allowing Sara Forrest to expand her International School at the expense of her neighbors and our neighborhood.

Please deny this request and review whether she should be able to continue her current School in our neighborhood. Are schools approved in this situation or just " daycare " ?At the meeting there appeared to be a number of Sarah's customers and friends from out side the area .... the tone from her allies was intimidating, in some cases rude and dismissive of the most of the residents as they tried to state their views. I hope as the request is evaluated only the true residents views will be considered.

Thank you for your consideration of my objections.

Sincerely  
Ed Sullivan  
11 Midland Road  
Colorado Springs, Colorado 80906

Sent from my iPad

## Teixeira, Rachel

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**From:** Ellen <easulli@comcast.net>  
**Sent:** Wednesday, August 23, 2017 10:29 AM  
**To:** Teixeira, Rachel  
**Subject:** Conditional Use Permit at 9 Upland Rd.

Dear Rachel-

My husband and I attended the meeting on Monday, Aug. 21 concerning the Conditional Use Permit for Broadmoor International Montessori School at 9 Upland Rd. We are totally opposed to granting a permit to increase the number of children that are already permitted. We were unaware that the city permitted any school facility in any residential area. Since I come from a city where there is no zoning, I am aware of the problems of having commercial businesses in residential areas. The owner said that this wasn't a business, but she receives an income from this venture-I was never clear if she called this a Day Care or a Montessori School. It causes a decrease in property values to the residential homes near by. I would never consider buying a home that was near a School or Day Care. I would like the Planning Commission to re-think the impact that having a business or school can have to the surrounding residences in terms of traffic and safety and noise.

There were several other things that concerned me at the meeting. There seemed to be people attending that did not live within the 1000 foot perimeter of 9 Upland Rd. To me the only people that should have been attending were people that would be impacted by living close to this particular home or having to use Upland Rd as their main access to the street where they live. This is a quiet neighborhood with many long term residence. I felt there were some people that were not from Broadmoor Heights that discounted the feelings and opinions of the older home owners, as well as, new homeowners that are impacted by commercial use in our neighborhood.

Upland Rd is for the most part the main street that someone would have to travel to gain access to all the side streets in Broadmoor Heights. It is a busy, windy and and fairly narrow road. It is particularly concerning in bad weather because of steep hills and curves in the road. The location of this house it is not safe for people parking and getting children in and out of a cars.

For me finding out that there is a Day Care/ Montessori School in our neighborhood is deeply concerning. This opens up the possibility of other business ventures being requested and that is an absolute guarantee that our property values will take a critical hit. It is completely not fair to the homeowners that have bought in good faith of being in a completely residential community.

I vote "No" to this request and would implore the Planning Commission to rescind any law that permits this kind of thing in a residential neighborhood.

Thank you.

Ellen Sullivan  
11 Midland Rd  
Colorado Springs, CO. 80906

Sent from my iPad

## Teixeira, Rachel

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**From:** Frank Warner <frankwarner6@gmail.com>  
**Sent:** Thursday, August 24, 2017 9:20 AM  
**To:** Teixeira, Rachel  
**Subject:** Day Care Sarah

Rachel

After attending the meeting on 08/21/17 and listening to both sides of the day care request, my position has not changed. I have never seen a parking or traffic problem. Also, there has never been a noise problem. I am in favor of Sarah Forrest being permitted to have between 7 to 12 children.

Frank Warner  
7 Upland RD  
Colorado Springs, CO  
80906

## Teixeira, Rachel

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**From:** Gary Karbousky <garykarbo@gmail.com>  
**Sent:** Tuesday, August 22, 2017 3:18 PM  
**To:** Teixeira, Rachel  
**Subject:** Fwd: 9 Upland Rd

Dear Rachel and Planning Committee:

This letter is to inform you of my feelings toward 9 Upland Rd becoming a day care center for 12 children. I felt strongly against the opening of this day care center in our small community prior to our neighborhood meeting on August 21st. But, after listening to various speakers on both sides of this issue give their views, I am more determined not to see a day care in Broadmoor Heights

My primary reason for objecting is the denial by some of the neighbors to the testimony given by those opposed to the day care. If a neighbor says she felt unsafe walking around parked cars on a blind curve with snow on the ground, she probably felt unsafe! Why, because I have walked the same route many times. An ally of Sarah has no business shouting down the neighbor who experienced this and him saying those circumstances cannot exist. They do!

Also, bringing in a childhood friend who is an attorney, that does not live in Broadmoor Heights, was in poor form. Was this a popularity contest and he was her campaign manager or character witness? If I brought in Mayor John Suthers and he said he liked quiet neighborhoods with no children, would we discount the attorney's words...?.

But to follow up on the attorney's words that this day care center will be good for the neighborhood, I ask, "how"? Sarah is going to make money by bringing in 12 children, but in my mind, she is adding to the traffic problem and not to the solution. I live on Thayer Rd and my reason for living here was peace and quiet. This is not helping me or any other neighbor!

I know what I've observed over the years living in Broadmoor Heights. I walk and drive Upland Rd daily and know the dangers of blind curves, snowy streets, and excess speed that cannot be controlled by street signs. These are facts that cannot be ignored and by adding more cars will only exacerbate this situation. We, as a neighborhood fought the Broadmoor Hotel when they were planning on taking away one of our egress roads and this was all about traffic safety and congestion.

Even though we don't have covenants against this type of business any longer, I'm sure our neighborhood planners and developers planned on homes, not businesses.

Can anyone say they moved into Broadmoor Heights to open a business?

Or were they looking for peace and quiet.....

Regards,

Gary Karbousky  
2 Thayer Rd



## Teixeira, Rachel

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**From:** hellebvh@aol.com  
**Sent:** Thursday, August 31, 2017 7:01 PM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Road

Dear Rachel and Panning Committee: I am writing this letter to express my strong opposition to the prospect of 9 Upland Road becoming a Day Care Center for 12 children. My husband and I chose to live in this neighborhood 8 years ago. We selected this location in Colorado Springs for its quiet, undisturbed, residential qualities. The wildlife is a plus. They like it too. I never entertained the thought of a business being allowed to open here. I am one of those people who walks her dog daily around the block. Since I live at Thayer/Midland, my daily venture requires my walking by the address of 9 Upland. I always tread carefully on that road secondary to cars coming down the rather blind curve in Upland above that address. This is especially required in inclement weather. I will be very dismayed if the financial gain to one individual supercedes the majority opinion expressed at the community meeting on Monday August 21. Thank you for your attention, Respectfully, Helle Bradley MD/ Karbousky



## Teixeira, Rachel

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**From:** Irmgard von der Gathen <ivondergathen@comcast.net>  
**Sent:** Tuesday, August 22, 2017 12:47 PM  
**To:** Teixeira, Rachel  
**Subject:** plan review for 9 Upland Road

To the Planning and Development Department:

My husband and I are firmly opposed to the plan request granting permission to run a school for up to 12 pupils at the above mentioned address.

We travel Upland Road daily. It is a narrow 2-way street without sidewalks. Residents walking their dogs must walk on the street. Any parking or stopping for pick and delivery of children will turn Upland road into a one way street. **This street feeds traffic to six (6!) roads: Leaming Road, Thayer Road, Westpoint, Sanford, Alta Vista, Plainview, and Midland. That is a lot of traffic!**

Additionally the house sits near a sharp turn in the road and people coming downhill will see any car parked only in the last minute. This will cause a very dangerous situation especially in winter when these **roads are not plowed and icy.**

Many concerns where justly raised about **bears** in the neighborhood which are usually a daily occurrence. We have had bears in our kitchen twice, neighbors have encountered them in their yards, on porches and in their swimming pools. Just the other day I filmed 3 bears in the driveway of 15 Upland Road. Additionally, there are coyotes, mountain lions and lynx coming from Strawberry Fields through our neighborhood.

Lastly, we are inquiring as to why the owners of 9 Upland are applying under the guise of a permit for day care when in reality it is precisely NOT a daycare but a school. A private school is a business and as such should not be permitted in this residential neighborhood.

***We are requesting a clarification regarding zoning on this and would be very appreciative to get a reply as to why a permit thought for daycare would actually allow a private school.***

Thank you very much for your careful consideration of the above mentioned problems.

Paul and Irmgard von der Gathen  
7 Thayer Road  
719-634-0445  
[ivondergathen@comcast.net](mailto:ivondergathen@comcast.net)

## Teixeira, Rachel

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**From:** Irmgard von der Gathen <ivondergathen@comcast.net>  
**Sent:** Tuesday, August 29, 2017 5:34 PM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Road

To the planning Department's attention:

We wanted to add to our previous letter that we don't see how a Montessori School can be considered a "Necessary Human Service" to get around building codes and special permits.

A Montessori School is a private school that is very expensive and only people that can afford it send their children for extra "schooling."

Public Schools are a "Necessary Human Service" but NOT these type of private schools that are NOT ESSENTIAL and are only affordable for certain income families.

I hope this inquiry will get your attention for reconsideration of special permits for residential neighborhoods.

Thanks much.

Mr. and Mrs.  
Paul and Irmgard von der Gathen  
7 Thayer Road

## Teixeira, Rachel

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**From:** Jessica Linder <jessicasue.linder@gmail.com>  
**Sent:** Wednesday, August 30, 2017 9:01 AM  
**To:** Teixeira, Rachel  
**Subject:** regarding Sarah Forrest

To Whom It May Concern,

I fully support Sarah Forrest and her Montessori school. I think this is one of the best settings and ways to teach young kids. Having a 4 and 6 year old, I know first hand the peace of mind it brings to place your kids in a loving home for learning vs. a big daycare or preschool setting.

We live above Sarah's house off Thayer Road, I work from home and my kids are involved in activities so I drive past Sarah's home 2-6 times per day. I have NEVER seen any cars parked on the road in front of her home and I have NEVER seen any traffic issues in or around her driveway.

In this day and age, most people do some sort of work out of their homes and I think the freedom and flexibility to do so is great.

Jessica Linder

## Teixeira, Rachel

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**From:** Jim and Cheryl Strang <jcstrang@live.com>  
**Sent:** Wednesday, August 30, 2017 3:21 PM  
**To:** Teixeira, Rachel  
**Subject:** Vote NO for 9 Upland rd.

Ms. Teixeira,

It is my understanding that there are three conditions for the proposed Large Home Daycare, at 9 Upland Rd., that must be satisfied.

The principal, Sarah Forrest, has not satisfied, nor is it possible to satisfy condition "B".

Please note my objection to this variance.

Respectfully,

Mrs. Cheryl Strang

## Teixeira, Rachel

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**From:** Jim and Cheryl Strang <jcstrang@live.com>  
**Sent:** Wednesday, August 30, 2017 3:17 PM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Rd. CUP request

Ms. Teixeira,

Thank you for hosting the neighborhood meeting on the Monday evening, Aug. 21. The information you provided was necessary for our understanding of the proposed LARGE HOME DAYCARE.

My input to the City of Colorado Springs is to vote FOR the NEIGHBORHOOD . This is NOT a vote to create a LARGE HOME DAYCARE. You provided us with three criteria that MUST ALL be met to move forward with the conditional use permit. The principal , Ms. Sarah Forrest, has not satisfied, nor is it possible to satisfy condition "B". The intent of the ZONING CODE is that the proposed use would be consistent with the intent & purpose of " promoting public health, safety and general welfare". The increase in number of children, parents, & a staff employee would only add congestion, confusion, & create a dangerous condition in our neighborhood.

The home , 9 Upland Rd., sits at the bottom of a "blind curve".

Upland Rd. is not marked with lines to keep traffic in a corridor.

There are no sidewalks for the children or parents.

There is not adequate parking designation on the street in this neighborhood.

The home is directly in the middle of FIVE neighborhood roads that intersect within one or two lots of 9 Upland Rd.

Traffic approaching the home from the West, comes down a hill, after a "blind curve", to the residence's drive with a " LIMITED SIGHT & DISTANCE issue".

We were told that this is not "daycare", but "early childhood education" The other childhood education facilities in our neighborhood (Greenshades & Canyon School) both have either designated crosswalks &/ or cars are directed to safe areas for dropoff & pickup of the children.

Every home in our neighborhood is unique. Possibly some would be safe for children to enter & exit as a "daycare" or "school". This home IS NOT SAFE for that many children to enter & exit. Therefore, since this permit will not enhance the " PUBLIC HEALTH, SAFETY and GENERAL WELFARE of the neighborhood ( & those who visit our neighborhood ) it should not be granted.

"You never know what is enough, until you find out what is more than enough". How many children are added to this equation in our neighborhood before someone is hit by a car? Then in retrospect the numbers are reduced, but it is too late. Who bears the burden of the decision to create an unsafe condition for children in this neighborhood?

Respectfully submitted,

Dr. James M Strang, Jr.

## Teixeira, Rachel

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**From:** Judy Sellers <judysell@aol.com>  
**Sent:** Tuesday, August 22, 2017 5:40 PM  
**To:** Teixeira, Rachel  
**Cc:** annhyoung@comcast.net; jamescyoung@qwestoffice.net; easulli@comcast.net; judysell@aol.com  
**Subject:** Request for conditional Use Variance 9 Upland Road

I am writing again to protest the request for a zoning variance for a large home daycare center at 9 Upland Road. Broadmoor Heights is an entirely residential neighborhood and has been that way from its inception. Apparently, from what I heard last night at the meeting, there are NO other conditional use permits in the area. So this one, if granted, would be a first, setting a precedent and opening the door a crack, for future requests of any kind.

Traffic and noise are at the top of my list of concerns. 9 Upland Road faces north so is without benefit of a warming sun in the winter when ice routinely builds up on the street. There are no sidewalks, and the home is set just below a blind curve on narrow Upland Road, always a traffic hazard. The addition of drop-off cars, children and parents getting in and out of their cars adds to the potential for serious accidents.

Noise is certainly an issue. Ms. Forrest states that while she would follow District 12's calendar for the school year, summer hours would be variable. In summer with twelve children playing outside there would certainly be a likely noise factor in an area where all of us live closely together and try to be respectful of late night noises or early morning lawn mower noise aggravations.

Safety for the children is another issue for young children. We have a number of animals native to the area that frequent the neighborhood. I have had a mother bear and her twin cubs in my yard for much of the summer, appearing randomly, and I know other neighbors also see them frequently. I have seen mountain lions in the neighborhood, and a bobcat was curled up asleep under our bedroom window this past spring. In our densely wooded neighborhood, it is easy for animals to go unobserved until they are provoked or go after prey.

We purchased our home in 1975 and while there have been additional homes built since that time, the residential aspect has never changed. Granting a conditional use variance would start the neighborhood down slippery slopes, making it easier for other variances to be granted in the future.

Philosophically, I do not believe that it is appropriate for anyone to buy into an established residential neighborhood, knowing it is thus, and then try to change things to his/her advantage. It's clear from the comments at the meeting last night that only MS Forrest would benefit from the variance, with none for the surrounding neighbors. She is apparently operating legally with a maximum of 6 children in her care, but doubling that number as she has requested doubles the chance for negative aspects as I have described above. I would also have to wonder if it would also reduce property values for those who live in the immediate vicinity.

I inquired of several of the attendees who were at the meeting last night and who supported the variance where they lived. Their answers were that they didn't live in the neighborhood but were parents of children already enrolled at the daycare. Their expressions of support should, of course, not be part of the Planning Commission's deliberations since they don't live in the immediate area.

Sincerely,

Judith B Sellers

2 Midland Road 80906

**Teixeira, Rachel**

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**From:** Kirk Anderson <lawofficeofkirkanderson@gmail.com>  
**Sent:** Friday, August 18, 2017 11:01 AM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Road Conditional Use Permit  
**Attachments:** Letter to City Planner.pdf

Ms. Teixeira,

Please find the attached letter in support of 9 Upland Road's Condition Use Permit.

-Kirk Anderson

**Law Office of Kirk Anderson, LLC**  
**1009 South Tejon Street**  
**Colorado Springs, CO 80903**  
**Ph# (719)-321-5731**  
**Fax# (719)-442-2278**

# Law Office of Kirk Anderson LLC

August 18, 2017

Rachel Teixeira, Planner II  
Land Use Review Division  
30 S. Nevada Ave., Suite 105  
Colorado Springs, CO 80901-1575

RE: File No.: CPC CU 17-00045  
Conditional Use Permit – Large Home Daycare at:  
9 Upland Road, Colorado Springs, Colorado, 80906

My Client: Sarah Forrest of 9 Upland Road

Dear Ms. Teixeira:

My firm represents Sarah Forrest concerning issues pertaining to the conditional use of a residence at 9 Upland Road in the Broadmoor Heights Subdivision in El Paso County.

As you know, Ms. Forrest currently has a home daycare permit and has requested a conditional use be granted which would allow her more flexibility in operating the valuable human service. I have reviewed several letters stating oppositions to the conditional use permitting a large daycare based on misinformation. Please allow me to address some of these issues below.

First and foremost, the primary purpose of 9 Upland Road has been, and will continue to be, a residence in which Sarah Forrest and her husband, Dr. Robert Ochsner, live and raise their two children. I have reviewed complaints asserting Ms. Forrest is attempting to run a commercial business at 9 Upland Road and this is in direct violation of Broadmoor Heights Subdivision bylaws as the units are “residential” only. These assertions are misleading and not based on facts or legal knowledge.

The services offered by Ms. Forrest under the conditional use as requested qualify as “Human Services.” If laws and regulations are complied with, Human Services are a permitted use for a residence. C.R.S. §38-33.3-103(26) defines “Residential use” as units primarily used as a dwelling and not primarily for commercial income from, or service to, the public.

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FIGURE 6



Ms. Forrest is comporting with all laws and regulations and 9 Upland Road's primary use is as a dwelling. Operating a permitted human service part-time within her dwelling does not and will not change the status of 9 Upland Road into a commercial use. Hence, there is absolutely no violation of any bylaw.

The perception being portrayed of Ms. Forrest as a homeowner acting outside her rights and obligations could not be further from the truth. Ms. Forrest has meticulously complied with all requirements, regulations, and bylaws (current or expired, explained below). Granting a conditional use to Ms. Forrest at 9 Upland Road comports with the Comprehensive Plan for the City, it would promote public health and safety, and it would not substantially injure any party or organization.

I submit to you that the organization acting outside its rights and obligations to both the neighborhood and the State of Colorado is the Broadmoor Heights Homeowners Association (hereinafter referred as "Broadmoor Heights HOA").

Opposition to granting Ms. Forrest's request for a conditional use permit have been submitted to you under the guise of the Broadmoor Heights HOA on letterhead inferring a cloak of authority. However, the Broadmoor Heights HOA is not in compliance with Colorado law or regulations and I urge you not to be persuaded by this cloak of authority for reasons set forth below:

- The Broadmoor Heights Homeowners Association Incorporated was administratively dissolved on October 31, 2004, nearly thirteen years ago. It is not within good standing as required by Colorado Law. Any member, manager, or last-elected president bringing an action as the Broadmoor Heights HOA representing the corporation as an active association would immediately be in violation of Colorado law.
- The Broadmoor Heights HOA does not fall within the definition of a "common interest community" or "association" under the Colorado Common Interest Ownership Act ("CCIOA") and therefore has no standing to enforce any restrictions within the subdivision. The definition of a "common interest community" pursuant to C.R.S. §38-33.3-103(8) "means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real

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estate described in a declaration." Furthermore, regulations put forth in the CCIOA cannot be disposed of by an agreement or bylaws.

The owners in Broadmoor Heights HOA do not own common property for which assessments are levied against the owners' lots for other real estate. Broadmoor Heights HOA does not hold homeowner meetings, board meetings, or levy assessments of any kind. No dues are collected from any owner within the subdivision.

Additionally, even if Broadmoor Heights HOA was considered a common interest community, it would be violating Colorado law if it attempted to enforce the bylaws because it is not registered with the Colorado Division of Real Estate.

C.R.S. §38 -33.3- 401(3) states that "[t]he right of an association that fails to register... to pursue an action or employ an enforcement mechanism otherwise available to it... is suspended until the association is validly registered pursuant to this section."

- If any agent representing Broadmoor Heights HOA, which dissolved in 2004, took any actions on behalf of the HOA, they would additionally be in direct violation of Colorado House Bills 12-1237 and 14-1254 as the following requirements have not been met:
  - House Bill 12-1237 enacted January 1<sup>st</sup> of 2013 states that **any** actions pursuant to enforcing bylaws taken by the board (or last-elected president acting on behalf of the defunct board) **without** a meeting must be accompanied with several pieces of information including financial statements of the corporation, a document showing the HOA is in good standing with the Colorado Secretary of State (once again, Broadmoor Heights HOA was dissolved in 2004), a list of every board member's address, information listing each and every unit owner entitlement to vote, ballots to vote, all written communications from the "board" to unit owners from the past three years, and all records maintained by the HOA must be made available for inspection. None of these elements have been complied and several other elements have been violated.

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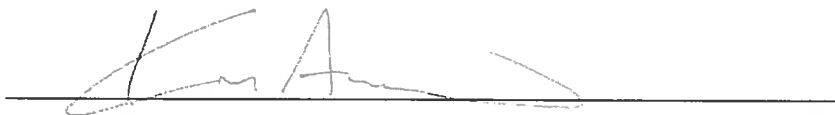
- House Bill 14-1254 enacted in 2015 also requires meticulous records and transparency disclosures, which if violated may result in a \$250,000 fine for each separate offense.

To put things succinctly, Ms. Forrest's request for a conditional use permit at her residence of 9 Upland Road is not in violation of any bylaws and is completely comporting with all requirements and regulations. Ms. Forrest should be afforded the opportunity and freedom to exercise her rights as a homeowner abiding with all laws and obligations.

Alternatively, the agents acting on behalf of the Broadmoor Heights HOA are violating multiple laws, regulations, and enacted provisions. The Broadmoor Heights HOA does not qualify as an association with the right to enforce any covenants or bylaws and by attempting to prevent the approval of the conditional use permit, Broadmoor Heights HOA is in violation of Colorado legislation, HOA regulations, and incorporation law.

It is respectfully requested that the City grant the requested approval for the conditional use at 9 Upland Road and any line item requiring approval from the Broadmoor Heights HOA be waived.

Sincerely,



Attorney, Kirk Anderson

8/18/17

Date

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## Teixeira, Rachel

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**From:** Mary Carlson <dandmc@hotmail.com>  
**Sent:** Sunday, August 27, 2017 11:26 AM  
**To:** Teixeira, Rachel; Mary Carlson  
**Subject:** Last Monday Neighborhood Meeting

Dear Rachel,

Dave and I attended the meeting at St. Paul's Church last Monday night. We live at 46 Upland, which is outside of the limit to get a card from your office.

We saw about the meeting through Sarah Forrest's outdoor notice area. We wanted to attend to understand and hear from neighbors and Sarah about her Conditional Use Permit Application.

We appreciate that Sarah is going through the process in an orderly way. We also appreciate that she has the right to continue her Regular Family Childcare Home.

At the same time, we moved into the neighborhood in 1996 because we wanted to be in a single dwelling area with urban and wildlife interface, e.g. no sidewalks, no street lights.

So we are not in favor of this permit for a Large FCC Home.

Thank you for your work in this process.

Dave and Mary Carlson

## Teixeira, Rachel

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**From:** Patti Lynch <dlynchfamily@comcast.net>  
**Sent:** Friday, September 01, 2017 12:55 PM  
**To:** Teixeira, Rachel  
**Subject:** 9 Upland Road

To Whom It May Concern:

We strongly oppose the granting of a conditional use variance for 9 Upland Rd. Granting this variance would further threaten an otherwise peaceful and quiet neighborhood. Broadmoor Heights is one of Colorado Springs oldest and most established neighborhoods. The values of the homes in the area are established and preserved by time honored adherence to the covenants and traditions of peaceful enjoyment. The current permit to allow 9 Upland Rd. to be a FCC home in 2016 is questionable in light of the increased noise levels and difficult traffic issues on a blind corner. A decision to further the degradation of the neighborhood characteristics will affect property values and establish a dangerous precedent.

To support the expansion of a "Human Service" for one homeowner will come at the expense of all homeowners in the area. Although, a FCC home is not recognized as a commercial operation, the noise and traffic issues are no less a problem. To obfuscate the impact of an expanded operation to the neighborhood with mitigating terms violates the legislative intention of the licensing and permitting authorities.

Too often across the country whereby the city government failed to protect established families and neighborhoods, discord was sewn and enmity took root. Law suits are unnecessarily prevalent in an increasingly litigious society. We have the opportunity to error on the side of common sense of a misplaced operation and say no for the benefit of everyone in Broadmoor Heights. Thank you.

The Lynch Family  
September 1, 2017

## Teixeira, Rachel

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**From:** tldefoe@aol.com  
**Sent:** Wednesday, August 23, 2017 3:01 PM  
**To:** Teixeira, Rachel  
**Subject:** Zoning 9 Upland Rd

My name is Terri DeFoe and I have a home around the corner from 9 Upland Rd, I am at 8 Thayer Rd.

I am very much opposed to the rezoning of 9 Upland Road to allow for a large daycare. This area is zoned R/HS and when we purchased our house last fall that was one thing we were very much aware of. We wanted to live in a quiet neighborhood where we could walk the dogs and be outside without a lot of traffic.

By changing the zoning on this property you could very well be doubling the amount of traffic we will experience as she is wanting to double the number of children she has onsite.

There is also the question of our property values, how does this help our neighborhood maintain its property values and/or help our neighborhood in general. I understand both of her neighbors have opposed this request and they are the ones who live with the traffic and disruption on a daily basis.

And with that being said...was there a reason her supporters needed to bully and try and intimidate two elderly gentlemen who opposed this? There was no reason for them to be rude or disrespectful to her neighbors.

In finishing, again we are very much opposed to this rezoning as we are a quiet, peaceful neighborhood and we would all like to keep it that way.

Respectfully,

Terri DeFoe  
8 Thayer Rd.

## Teixeira, Rachel

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**From:** William Tammy Carter <wtccarter@msn.com>  
**Sent:** Wednesday, August 09, 2017 8:24 AM  
**To:** Teixeira, Rachel  
**Subject:** Neighborhood Meeting Public Notice-9 Upland Road

Received public notice for the neighborhood meeting Aug 21<sup>st</sup> for large home daycare at 9 Upland Road. I am concerned since this is for 7-12 children. Using the adjective of large is correct. This is an amount which surely will indicate that they must have employees to handle a daycare of this size. This size is too large for a residential home type daycare. This is no longer a home but a business. I object to installing a business within a residential area.

I am concerned and unable to review the plans or possibly attend the Aug 21<sup>st</sup> public meeting. Is it possible to receive a copy of the plans? As well, is it possible for me to voice my concerns via email?

Thank You,  
**Tammy Carter**  
**17 Sanford Road**  
Colorado Springs, CO 80906  
719.591.2056

## Teixeira, Rachel

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**From:** William Tammy Carter <wtccarter@msn.com>  
**Sent:** Friday, August 18, 2017 2:13 PM  
**To:** Teixeira, Rachel  
**Subject:** RE: Neighborhood Meeting Public Notice-9 Upland Road

Thank you for all the information. After reading thru the materials and re-reading the Broadmoor Heights Declaration of Establishment (Covenant), I would like to officially state the reasons why I object to the daycare at 9 Upland Road.

- Covent states "private residence purposes, only"

I understand that a Home Based Business can be a Home Day Care Permit, which is currently in place at 9 Upland Road for "no more than six children at a time". However, according to City of Colorado Springs DAB 603 there are current resident complaints (in emails) which are violating the DAB 603 with the current Home Day Care. They are:

- "Home Occupation cannot disturb or interfere with the quiet enjoyment of another's property."
- "...congestion to traffic flow..."
- "...parking problems..."
- "...or any other nuisance or hazard that disturbs the peace and quiet of a residential zone..."
- "When a home occupation has ongoing visits from clients, they must be on an appointment basis with a minimum of fifteen (15) minutes of space between appointments. Only one client vehicle should be present on-site at anytime with parking situate so as to not cause a detriment to adjacent and nearby residential neighbors."

So, based on the above, even the current daycare in operations at 9 Upland Road is in violation. This is without even going thru the request for enlargement!

I have a city zoning and planning question based on the DAB 602-Home Day Care Permit stating that "Covenants and/or restrictions are additional requirements that apply in neighborhoods and supersede City Code. If a covenant and/or restriction prohibits a home based business, a Home day Care would not be allowed at the property."

- Is the Broadmoor Heights R/HS (Single –Family Residential – Estate with Hillside Overlay) and/or the Broadmoor Heights covenant of "private residence purposes, only" already allowing the current Home Based Business / Home Day Care to be a violation?

Thank You,  
Tammy Carter  
17 Sanford Rd

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**From:** William Carter [<mailto:wtccarter@msn.com>]  
**Sent:** Wednesday, August 09, 2017 8:23 AM  
**To:** 'rteixeira@springsgov.com'  
**Subject:** Neighborhood Meeting Public Notice-9 Upland Road

Received public notice for the neighborhood meeting Aug 21<sup>st</sup> for large home daycare at 9 Upland Road. I am concerned since this is for 7-12 children. Using the adjective of large is correct. This is an amount which surely will indicate that they must have employees to handle a daycare of this size. This size is too large for a residential home type daycare. This is no longer a home but a business. I object to installing a business within a residential area.



I am concerned and unable to review the plans or possibly attend the Aug 21<sup>st</sup> public meeting. Is it possible to receive a copy of the plans? As well, is it possible for me to voice my concerns via email?

Thank You,  
**Tammy Carter**  
**17 Sanford Road**  
Colorado Springs, CO 80906  
719.591.2056

## Arach Forrest School / Degrade

In our many moves of 48 yrs of marriage, we could always depend on one constant: every town / city had definite 'implied use' expectations -- good school zones, elementary, junior and senior high zones - starter home areas, mobile home areas, retirement areas, prestige areas - location, house size / price, delineated certain expectations - I was not alone at the 8/21 meeting to discover that Springs issues "blanket" authorizations -- blind-sided and kicked in the gut!

When we moved to Springs in 2013 for my health and our retirement, we paid a huge amount for a home in this area for the peace, solitude, privacy, <sup>and</sup> shelter from outside stresses and irritations - We traded for peace, quiet, <sup>and</sup> solitude rather than school, grocery, banking, medical, shopping conveniences -

Ms Forrest made no attempt to inform the neighborhood of her intent to change its character -- With footcandle, she knew in all likely hood, her school would not be approved or appreciated - Ms Forrest request now has turned neighbor against neighbor, friend against friend - What a legacy! The damage is done - A neighborhood divided by arrogance and greed -

Ms Forrest could relocate her school elsewhere to an appropriate area - Retired people are tired, tired of moving, physically and financially unable to move: . . . where would we go?!

Calling this a Pandora's Box sounds horrendous  
in my mind - However, as a senior citizen,  
experience and common sense leaves me no choice -

Your decision will honor a select few, or  
an anxious majority (many of whom are too old,  
tired or disheartened to fight) -

I pray for your wisdom and prudence -

Thank you for your time and consideration  
in reading this letter -

John, Dorothy Bradberry  
19 Upland Rd

Anne Bradberry

( the law states a "NECESSARY human service"  
is this school and its possible endorsement a  
"necessary" service in our neighborhood? )

Rachel Teixeira:

CONCERNS - 9 upland Rd.  
Robert / PEGGY Foster  
14 upland Rd.

Our Normal Traffic has  
Increased at These prime Traffic  
Times (0845 - 1245). CARS PARKED  
Along This NARROW Street is CAUSING  
Problems. <No PARKING ALONG STREETS>

INCREASE Traffic:

Present: 6 CARS MAKE (4) Trips a DAY.  
 $6 \times 4 = \underline{\underline{24}}$  Trips a DAY.  
Week = (120) INCREASE

New: 12 CARS MAKE (4) Trips a DAY.  
 $12 \times 4 = \underline{\underline{48}}$  Trips A DAY.  
Week = (240)

This is Not fair To The Citizens ON  
FIGURE 6

