



# City of Colorado Springs

Plaza of the Rockies  
South Tower, 5th Floor  
Blue River Board Room  
121 S Tejon St, Colorado  
Springs, CO 80901

## Meeting Minutes - Draft Planning Commission

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Thursday, April 21, 2022

8:30 AM

Open to Public  
Call 720-617-3426 Conf ID: 785 230 166 #  
Blue River Board Room

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### Little Monkey Tree House - Large Daycare

**7.A. CPC CU  
21-00196**

An appeal of City Planning Commission's decision to approve a conditional use development plan for a licensed large daycare home with a maximum of twelve (12) children and infants at 8265 Clifton Drive.

(Quasi-Judicial)

**Presenter:**

Tamara Baxter, Senior Planner, Planning & Community Development Department  
Peter Wysocki, Director, Planning and Community Development Department

**Staff presentation:**

Tamara Baxter, City Planning, presented a PowerPoint with the scope and intent of this project.

**Site Details:**

- Zoned R1-6/AO (Single-Family with Airport Overlay)
- Single-family residence located at 8265 Clifton Drive, Lot 45, Fairfax Ridge Filing No. 3.

**Public Notification and Involvement:**

- Public notice was mailed to 269 property owners, on two occasions: internal review and this Planning Commission hearing
- The site was also posted on the two occasions above
- Six written correspondences in opposition were received during the internal review.
  - Traffic - Increase in traffic in the neighborhood
  - Parking - Parking all over the street
  - Noise - Increase noise from children
  - Business Operation - Concern that business is not currently operating as proposed.
  - Conflict with neighborhood covenants - Not allowed per covenants

**Project Description:**

- Currently operating under a Home Day Care Permit since 2013
  - 6 full-time and 2 part-time
- Request to increase the maximum number of children to twelve (12) - Large Home Daycare

- Meets State of Colorado Child Care requirements for outdoor and indoor space per child.
  - Indoor space/child - 35 square feet per child (420 square feet minimum)
    - Provided - 1,900 square feet
  - Outdoor space/child - 75 square feet per child (900 square feet minimum)
    - Provided - 1,485 square feet (completely fenced)
  - Monday thru Friday; 7:15 am - 4:00 pm; No weekends
    - Follow Academy School District 20 calendar for closed days (summer, breaks, snow days)
    - Drop-off and pick-up - staggered times
    - On-site parking within driveway

**Public Comment:**

- Traffic - Increase in traffic in the neighborhood
  - Traffic Engineering had no comment with respect to traffic for this project.
  - Some families have multiple children therefore few vehicles
- Parking - Parking all over the street
  - Parking is proposed within the driveway and in front of residence as needed
  - Staggered drop off and pick up times to minimize impact to neighbors
- Noise / Business Operation - Increase noise from children
  - Daycare to follow Academy School District 20 calendar (no daycare during summer or holidays)
  - Children noise is common in residential neighborhoods
  - Applicant has her own children that have friends over in evenings and weekends
- Conflict with neighborhood covenants - Daycare not allowed per covenants
  - Neighborhood covenants are civil and not enforced by the City of Colorado Springs
  - A small daycare has been operating at this location since 2013

**Applicant:**

Jesus Perez, husband of the applicant Anna Johnson, spoke to the commissioners about this project. His wife was unable to attend due to a family emergency.

- Has only had complaints from the neighbor who lives next door
- Follows School District 20's calendar
- No daycare during the summer, snow days, or holidays
- 3-car driveway and willing to assign for people to drop off/pick up kids to prevent traffic in the streets
- Expanding the childcare will provide help to the community
- Attempted to reach the company regarding the covenants, but the company is no longer in business, and they have no idea who enforces the covenants

**Questions:****Supporters:**

Lisa Leach,

- Lives one street over from this house
- Listening to kids play in the yard is fun
- Other families in the neighborhood have that many kids in their home already, so having a daycare with that many kids is okay
- As for traffic, people are dropping off their kids off or picking them up. They are not causing a traffic jam

**Opponents:**

Sandra Foss, next door neighbor

- Ms. Foss said this daycare has been denied before, as she gave them a copy of the covenants, which specifically prohibits a daycare in the neighborhood
- The daycare clearly harms the neighborhood by devaluing the property, causing increased noise and traffic, and causing destruction of private property (Specifically Ms. Foss' property)
- Parents park on the sidewalk and block Ms. Foss' driveway
- So much noise that Ms. Foss is unable to open her windows on the south or east side of her house
- None of the neighbors want this daycare
- There was no notice for the original permit for a daycare (not the Large Daycare), but Ms. Foss said she objected to the daycare and nobody else knew about it
- City leaders need to protect and enforce the property owners' rights

Brad Neal, lives close to the residence in question

- Opposed to increasing this residence to a large daycare
- Opposed to it even being a small daycare
- Lived in his house since 2008 and this is the first time he has ever received notification regarding a daycare
- Mr. Neil said he was never aware there was even going to be a small daycare
- If you want a business, that is great, but it does not belong in a residential neighborhood
- In the timeframe that he has become aware that there has been a daycare there, he has noticed an increase in the amount of traffic and amount of noise
- Mr. Neal said he works during the day, but his wife is home, and she has to keep the front side of our house shut because the noise is so loud they are unable to conduct themselves in their own home
- There have been instances of individuals speeding in the neighborhood
- Those parents will pull up on the sidewalk or block driveways because they are in a rush to drop their kids off

- We expect to live in peace and not have that peace disrupted by somebody running their private business out of their house

**Questions of Staff:**

Commissioner Almy asked if a conditional use was required for a small daycare? Ms. Baxter explained small daycares are allowed in residential zone districts, but they must apply with the city for a permit. Ms. Baxter stated Ms. Johnson has had a permit with the city since 2013 for the small daycare.

Commissioner Almy said he understood and just wanted to clarify that there would be no notification or anything for the small daycare. Ms. Baxter confirmed that to be true.

**Rebuttal:**

Tamara Baxter, City Planning

- Ms. Baxter clarified that per code, a small home daycare is allowed, and Ms. Johnson has a license with the State and a permit with the City for the small home daycare

Jesus Perez

- Mr. Perez said there has been a lot of discord from Ms. Foss
- One time a parent blocked Ms. Foss' driveway by about six inches, and they asked the parent to move their vehicle
- There will be a 3-minute drop off so there is not a lot of traffic in the neighborhood

**DISCUSSION AND DECISION OF PLANNING COMMISSION:**

Commissioner Rickett said as much as he believed we needed more daycare in Colorado Springs, in this case it seems to be a little more adverse to the neighborhood. By increasing the number of children, it might increase the number of drop offs and pickups every day. The intent of the code is to determine that the public health, safety, and general welfare is not affected. In this case, it sounds like it has been affected, so he will not be in support of the conditional use.

Commissioner Almy clarified that the Planning Commission does not worry about covenants. Covenants exist for a neighborhood, and they have their own remedies. The Planning Commission goes by the actual code. The applicant and those against the project really need to look at being good neighbors. You almost have to overdo it to make sure there are no adverse impacts to the neighborhood. If people are parking in driveways or on sidewalks, that is something that needs to be rectified going forward. As far as the traffic goes, speeding is not unique to this neighborhood. Commissioner Almy said his rationale for supporting the conditional use, although he did understand the neighbors' concerns and issues, he felt there are remedies outside of the Planning Commission that could be taken either through the covenants of their homeowners association or by engaging with police to govern people speeding in the neighborhood.

Commissioner Raughton said he agreed with Commissioner Almy that

covenants were not the responsibility of the Planning Commission to enforce, but there has been contradictory testimony. Commissioner Raughton asked staff if they had looked at the covenants to see if that was a prohibited use. Ms. Baxter said she tried to search for a copy of the covenants and was not able to find one, nor was she provided a copy of them during the review process. Commissioner Raughton said that normally, they would refer to permitted uses and the procedure of the city. Commissioner Raughton said he is of the opinion that childcare is an appropriate use in a residential area and will be supportive of this application. He asked that the applicant take extra effort to collaborate with neighbors.

Commissioner Eubanks said she thought it was unreasonable to state that there should be no personal businesses allowed in a residential area. There are a lot of businesses that qualify as being compatible with being in a residential area and childcare is one of them. Looking at the neighborhood map, it does not seem like this is the only daycare in that neighborhood. It appears it is just an issue of trying to collaborate with your neighbors to make sure you are doing the most you can to try to have the least impact on your surroundings as possible, which she thought the applicant was doing. Commissioner Eubanks said she would be in favor of this application.

Chair Hente said he was going to make some comments, but as is normally the case, Commissioners Raughton and Almy did a better job of expressing what he was going to say and agreed with what they said.

Commissioner Rickett said he agreed that the Planning Commission does not cover covenants in neighborhoods and only follow the code. He said the small daycare is obviously appropriate by the code, but he felt that expanding it was not appropriate and did not follow actual approval criteria.

**Motion by Vice Chair McMurray, seconded by Commissioner Raughton, to approve the Conditional Use Development Plan for the Little Monkeys Treehouse Childcare project in the R1-6/AO (Single Family with Airport Overlay), based upon the finding that the request meets the findings for granting a Conditional Use as set forth in City Code Section 7.5.704 and the review criteria for granting a Development Plan, as set forth in City Code Section 7.5.502(E). The motion passed by a vote of 6:2:1:0**

**Aye:** 6 - Commissioner Raughton, Vice Chair McMurray, Commissioner Wilson, Chair Hente, Commissioner Almy and Commissioner Eubanks

**No:** 2 - Commissioner Slattery and Commissioner Rickett

**Absent:** 1 - Commissioner Graham