



THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY PLANNING COMMISSION

Complete this form if you are appealing an **Administrative** decision to City Planning Commission.

APPELLANT CONTACT INFORMATION:

Appellants Name: Ronald Toman Telephone: 719-491-6654
Address: 5155 Wild Rose Ln City Colorado Springs
State: CO Zip Code: 80918 E-mail: rontoman@comcast.net

PROJECT INFORMATION:

Project Name: A-STRP-22-0278
Site Address: 5135 Wild Rose Lane, Colorado Springs CO 80918
Type of Application being appealed: RENEWAL OF STR PERMIT
Include all file numbers associated with application: STRP-22-0235 General Record
Project Planner's Name: Carli Hiben
Hearing Date: Dec 14, 2022 Item Number on Agenda: _____

YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement.
 - See page 2 for appeal statement requirements.

Submit **all** 3 items above to the **Land Use Review office (30 S Nevada, Suite 105, Colorado Springs, CO 80903)**. Appeals are accepted for 10 days after a decision has been made. Submittals must be received **no later than 5pm on the due date of the appeal**. Incomplete submittals and / or submittals received after 5pm or outside of the 10 day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day.

If you would like additional assistance with this application please contact the Land Use Review office at 385-5905.

APPELLANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Ronald M. Toman _____ Date Oct 28, 2022

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

- If you are appealing a decision made Administratively the following should be included in your appeal statement:
 1. Verbiage that includes justification of City Code 7.5.906.A.4
 - i. Identify the explicit ordinance provisions which are in dispute.
 - ii. Show that the administrative decision is incorrect because of one or more of the following:
 1. It was against the express language of this zoning ordinance, or
 2. It was against the express intent of this zoning ordinance, or
 3. It is unreasonable, or
 4. It is erroneous, or
 5. It is clearly contrary to law.
 - iii. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.

CITY AUTHORIZATION:

Payment: \$ 176.00

Date Application Accepted: 10/28/2022

Receipt No: _____

Appeal Statement: Yes

Intake Staff: CBH

Completed Form: Yes

Assigned to: CBH

Appeal Statement regarding STR Permit Renewal A-STRP-22-0278 for 5135 Wild Rose

- 1. The ordinance provisions that are in dispute are Ordinance 19-101 which states: OWNER OCCUPIED: the property is occupied by the owner for not less than one hundred and eighty-five (185) days each year.**
- 2. The appellant claims that the administrative decision is incorrect because it is erroneous. It was based on inadequate and/or incorrect substantiation.** Proof of occupancy submitted is a driver license and a student application both of which are unreliable, may be outdated, and do not provide conclusive proof that the applicant has lived at the property for a minimum of 185 days. Those documents merely reflect the address of 5135 Wild Rose Lane.

Notwithstanding a signed and notarized affidavit swearing that this property, 5135 Wild Rose Lane is the applicant's primary residence, Neighbors are willing to testify that the applicant, husband and seven children have not occupied this residence since moving to their primary residence at 1365 Northfield Rd Colorado Springs CO 80919. Occupy is defined as "to reside", "to dwell in". **The burden placed on the appellant to conclusively prove this fact is unreasonable and would require something like a security camera record.**

- 3. In identifying the benefits and adverse impacts created by the decision, there were no benefits identified. Adverse impacts were identified in a letter to the City on Feb 18,2022.** Eleven neighbors stated that: "As neighbors to this property, we are concerned about the additional traffic in our Cul-de-sac. We are also concerned about security/privacy/party issues because our properties on Wild Rose Lane are un-fenced per our covenants. It is not appropriate for a STR."

Two days before the renewal application was submitted, all (100%) of the neighbors residing in Eagle Vista Estates signed a letter on September 25th, 2022 requesting that the STR permit not be renewed because of the adverse impact on the Eagle Rock community. **CONDITIONS OF APPROVAL per City code 7.5.1705 is to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected.**

Regarding burdens placed on the appellant (which is the community of ERNI), this would be auto and pedestrian traffic in the Cul-de-sac from non-residents that we would have to avoid when leaving our homes. Also, the burden of proof regarding compliance with Ordinance 19-101 was placed on the appellant community rather than on the owner of the STR. It should be reversed.

APPEAL 22TMP-034230 regarding STR Permit Renewal A-STRP-22-0278 for 5135 Wild Rose LN

HISTORY:

Oct 6,2021: Vostatek obtained a STR Owner-occupied Permit while living at 5135 Wild Rose Ln (the property)

Oct 18,2021: Vostatek family purchased a home at 1365 Northfield Rd with an occupancy affidavit swearing to the mortgage lender that they intended to occupy that property as their principal residence. (Verification is pending with regard to the occupancy affidavit and its disclosure should be required for the appeal hearing.)

December 2021: Vostatek family was completing their move from Wild Rose Lane to Northfield Road.

January 2022: 5155 Wild Rose Ln started being rented on AirBnB and has continued until present.

Feb 18,2022: 11 nearby neighbors in Eagle Vista Estates signed a letter and sent it to Code Enforcement complaining that the property was being rented as a NON-OWNER OCCUPIED STR which did not conform to the permit. (Letter is included with appeal)

Mar 21, 2022: A message was sent to the Vostateks informing them of the complaint and that Sean Cope had been assigned to the case (#2201178) as the code enforcement officer.

Apr 11,2022: a message was sent to Councilman Dave Donelson, District 1, informing him of the situation and lack of code enforcement.

May 2022: Phone conversations with the code enforcement officer explained the issues with the 185-day occupancy rule and the fact that enforcement could not begin until 180 days had passed since the applicant had moved out.

June-August 2022: the property continued to be rented as an STR, notwithstanding that neighbors observed no indication that the property was being occupied by the applicant as their "primary residence".

Sept 25,2022: Every neighbor living in Eagle Vista Estates (15) plus one, hand delivered a signed letter to the City Land Use Review Division requesting that the "STR permit not be renewed for 5135 Wild Rose Ln after the current permit expires." (Letter is included with appeal)

Sept 27, 2022: Jenny Vostatek applied for a renewal of their existing Owner-Occupied STR permit and signed an affidavit that 5135 Wild Rose Ln is her primary residence.

Oct 24, 2022. The City Land Use Review Division approved the renewal of this permit, based on the aforementioned affidavit, a driver's license with that address and a school affidavit with that address.

Oct 27,2022. The Eagle Rock Neighborhood Inc (ERNI) Board voted to file this appeal