



THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY COUNCIL

Complete this form if you are appealing **City Planning Commission's, Downtown Review Board's or the Historic Preservation Board's** decision for City Council

CITY CLERK'S OFFICE
2022 NOV 18 A 11:07

APPELLANT CONTACT INFORMATION:

Appellants Name: Jayson Campbell + Jed Fugue Telephone: 719-310-7057
719-291-3833
Address: 966 Fire Rock Pl City Colorado Springs
State: CO Zip Code: 80921 E-mail: velkjay@comcast.net
Vetajay@comcast.net

PROJECT INFORMATION:

Project Name: Polaris Pointe South Filing No. 4 PUD Development Plan
Site Address: Spectrum Loop
Type of Application being appealed: Development Plan
Include all file numbers associated with application: AR PUD 22-00062; NV 22-00480; AR NV 22-0048
Project Planner's Name: Tamara Baxter
Hearing Date: 9 Nov 2022 Item Number on Agenda: 7.A; 7.B; 7.C

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. Your appeal statement should include the criteria listed under "Option 1" or "Option 2".

Submit **all** 3 items above to the **City Clerk's office (30 S Nevada, Suite 101, 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, 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 offices 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.

Signature of Appellant: [Signature] Date: 18 Nov 2022

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

- **OPTION 1:** If you are appealing a decision made by City Planning Commission, Downtown Review Board, or the Historic Preservation Board that was **originally** an administrative decision 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.

- **OPTION 2:** If the appeal is an appeal of a City Planning Commission, Form Based Zoning Downtown Review Board, or Historic Preservation Board decision that was **not made administratively initially**, the appeal statement must identify the explicit ordinance provision(s) which are in dispute and provide justification to indicate how these sections were not met, see City Code 7.5.906.B. For example if this is an appeal of a development plan, the development plan review criteria must be reviewed.

CITY AUTHORIZATION:

Payment: \$ _____

Date Application Accepted: _____

Receipt No: _____

Appeal Statement: _____

Intake Staff: _____

Completed Form: _____

Assigned to: _____

This is an appeal of the decision made by the Planning Commission on November 9, 2022, to approve the Sunset Amphitheater (Polaris Pointe South Filing No. 4 PUD Development Plan, and two non-use variance requests), City File No. AR PUD 22-00062. The Planning Commission erred in approving this proposal because the project would violate three already existing city ordinances and thus should not have been approved. The proposed project is not compatible with the surrounding neighborhoods which would be adversely impacted by the project.

The first ordinance that the project would be in direct violation of is City Code Section **9.8.101: NOISE PROHIBITED:**

A. It is unlawful to make, create, or permit an excessive or unusually loud noise, or a noise which endangers public safety, or a noise which is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section 9.8.103 of this part; except when made under and in compliance with a permit issued pursuant to section 9.8.109 of this part.

City Code 9.8.103 (Permissible noise levels). The decision is against the express language and intent of this zoning ordinance. During the Planning Commission hearing, the developer admitted they must seek a hardship permit for every concert for this particular ordinance due to the close proximity of the new apartment complex that was recently approved by the City Council and which will be built at the southwest corner of Voyager and Spectrum Loop. Due to the close proximity, the Sunset Amphitheater cannot meet the 50db level set forth in the ordinance between the hours of 7AM and 7PM for a residential area. A hardship waiver must be approved by the mayor (per City Code § 9.8.109) and this has not occurred and should have occurred prior to the Planning Commission hearing. Many Planning Commission members expressed concern over this very issue but passed it anyway. For this very reason, the Planning Commission's approval of the project is unreasonable, erroneous, and clearly contrary to law.

The second ordinance that this approval is in direct violation of is City Code § 7.4.204 (Parking). The decision is against the express language and intent of this zoning ordinance. The developer does not meet any of the criteria for granting the variances requested under § 7.4.204(B)(1)(a-c) and § 7.4.204(C)(1)(D). When the criteria are not met, the variance cannot be granted. None of the shared parking or the on-street parking is within 400 feet of the venue. This approval is clearly unreasonable as it will have a great adverse effect on the surrounding

community with additional heavy traffic during events, and patrons utilizing access to free curbside parking in and around the surrounding neighborhoods within three quarters of a mile, disrupting homeowners' quality of life. It will also have an adverse impact on local businesses by clogging parking lots, preventing clients from using on-street parking, and making access difficult through increased traffic before and after performances. Also, the on-street parking and adjacent areas would not be maintained by the developer, but by taxpayers. The inadequacy of the parking will result in traffic congestion and impact the safety of the established neighborhoods in proximity to the project. Many planning commissioners had concerns with on-street parking yet approved the variance anyway. For these reasons, the Planning Commission's approval of the variance is unreasonable, erroneous, and clearly contrary to law.

The third ordinance that this approval is in direct violation of is 7.5.802(3) which requires that the granting of variances not have an adverse impact on surrounding properties. The decision is against the express language and intent of this zoning ordinance. It is clear that this proposed amphitheater will have a large adverse impact on the surrounding existing homes and businesses as it is designed today with regard to sound, traffic, and parking in existing neighborhoods.

Finally, as a seasonal, concert venue that likely would host fewer than 100 events per year, rather than a year-round business and entertainment center, the amphitheater is not in conformance with PlanCOS adopted in January 2019.

In the project design's current state, the Planning Commission's approval of it is unreasonable, erroneous, and clearly contrary to law.



CITY OF COLORADO SPRINGS

OFFICE OF THE CITY CLERK
30 S. NEVADA AVE., SUITE 101
COLORADO SPRINGS, CO 80903
719-385-5901

RECEIPT

DATE: 11/18/2022

Receipt #: 83723

License Type: PER_SUB_TYPE

Payment Type: Business Check

Reference #: 4164

LICENSE NO: 10FDD-00000-#0001

Post Date: 11/18/2022

Receipt Total: \$176.00

PAYEE:

Greyhawk at Northgate Homeowners Association, Inc
1720 Jet Stream Drive
Colorado Springs, CO 80921

For the Licensed Premises at:

Comments: Appeal of Polaris Pointe South Filing No. 4 PUD Development Plan
Spectrum Loop

PAYMENT DETAILS:

Description	Quantity	Amount
Planning Appeal Fee	1	\$176.00

Greyhawk at Northgate Homeowners Association, Inc.

1720 Jet Stream Drive, STE 200
Colorado Springs, CO 80921

CIT BANK
PHOENIX, AZ 85082

4164

11/16/2022

PAY TO THE
ORDER OF CITY OF COLORADO SPRINGS

\$ 176.00

One Hundred Seventy-Six Dollars and 00/100 *****

City of Colorado Springs
City Clerk's Office
30 S. Nevada, Suite 101
Colorado Springs, CO 80903



A rectangular box containing a handwritten signature in black ink. Below the signature, the words "AUTHORIZED SIGNATURE" are printed in a small, sans-serif font.

MEMO Invoice: 11102022

⑈0000004164⑈

⑆104002894⑆

305646867⑈

Grey Hawk at Northgate - Warren
1720 Jet Stream Dr
#200
Colorado Springs, CO 80921
(719) 685-8713

Association Greyhawk at Northgate Homeowners Association, Inc.

Check No 4164

Amount \$176.00

Invoice No 11102022

Invoice Date 11/10/2022

Description City Council Appeal Fee for Sunset Amphitheater