



# 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: The Springs Ranch Community Association, Inc. Telephone: (719) 471-1703  
Address: c/o Bennett Shellenberger Realty, 1710 E. Pikes Peak Avenue, #200 City Colorado Springs  
State: CO Zip Code: 80909 E-mail: peggy@bsrcommunities.com

### PROJECT INFORMATION:

Project Name: Pony Park Residences  
Site Address: 3055 Flying Horse Road, Colorado Springs, CO  
Type of Application being appealed: Plat  
Include all file numbers associated with application: File # AR FP 19-00023  
Project Planner's Name: Hannah E. Van Nimwegen (719) 385-5365  
Hearing Date: \_\_\_\_\_ Item Number on Agenda: \_\_\_\_\_

### YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

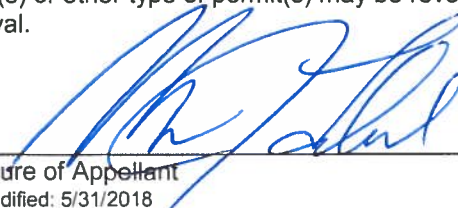
1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement.
  - See page 2 for appeal statement requirements.

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 or would like to speak with the neighborhood development outreach specialist, contact Katie Sunderlin at [sunderka@springsgov.com](mailto:sunderka@springsgov.com) (719) 385-5773.

### 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.

 attorney  
Signature of Appellant  
Last Modified: 5/31/2018

March 6, 2020  
Date

**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: \$ \_\_\_\_\_

Date Application Accepted: \_\_\_\_\_

Receipt No: \_\_\_\_\_

Appeal Statement: \_\_\_\_\_

Intake Staff: \_\_\_\_\_

Completed Form: \_\_\_\_\_

Assigned to: \_\_\_\_\_

## APPEAL STATEMENT

Springs Ranch Community Association (“SRCA”) is a Colorado non-profit corporation that was created to serve as the homeowners’ association for nearly the entire neighborhood at the southwest portion of a large planned development in the City of Colorado Springs, originally platted as The Colorado Springs Ranch Filings 1 and 4. Its members include nearly all the owners to the east of the Springs Ranch Golf Course, south of North Carefree Circle, west of Peterson Road and north of Haystack Drive and/or Turkey Tracks Road.

The enclosed map combines the current plats of the area in question (everything that is not gray in color). However, the homes that are highlighted in yellow are not part of SRCA, for the reasons explained below.

SRCA realizes that the City does not enforce private covenants between private property owners. However, all the governing documents of this area (especially the most recent Covenants of the SRCA made in 1994) have provisions that were designed to address concerns that City Planning had with projects east of the golf course; and SRCA (having dealt with those problems) believes that there was not sufficient attention given to the safety issues arising out of the increased traffic, parking problems and the density issues arising out of the plat for the Pony Park Residences, because the 1994 plan (to have SRCA handle that problem) will not work, for the reasons described below.

The problems that limit SRCA’s ability to solve the parking and traffic problem began when there were only 827 Lots located within Colorado Springs Ranch Filing Nos. 1 and 4, which were originally platted in the recordings described below:

- (a) Colorado Springs Ranch Filing No. 1 (“Filing No. 1”), as shown in the plat recorded on January 2, 1984, at Plat Book Z-3, Page 136, Reception No. 1341342 of the records of El Paso County; and
- (b) Colorado Springs Ranch Filing No. 4 (“Filing No. 4”), as shown in the plat recorded on April 29, 1986 at Plat Book A-4, Page 80, Reception No. 01387564 of those same records.

The property in question (Lot 62) has not changed since that second recording, because it is the vacant Lot located at the southwest corner of Pony Tracks and Flying Horse Road (known by street address as 3055 Flying Horse Road), which was platted as Lot 62 in Block 1 of Filing No. 4 (and appears in yellow on the enclosed map). Said property is still subject to the Protective Covenants for Filing No. 4 that were recorded on January 22, 1987 in Book 5306 at Page 317 of those same records (the “1987 Covenants”) as explained below.

Traffic has always been a major issue in this subdivision, as there are only three (3) access points into this subdivision, which will be increased by 36 Lots (by virtue of the Plat) right at one of those access points. This large number of residences were never intended to be located at that access point, because:

- (a) at the time the subdivision began in the 1980s, the Lot in question was owned by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints, by virtue of the Warranty Deed that had been recorded the year before on January 3, 1986, at Book 5110 at Page 540 of those same records;
- (b) that Deed was subject to the provisions, conditions and obligations recorded in an Annexation Agreement recorded in Book 3923 at Page 1133 of those same records;
- (c) as a result, the Presiding Bishop of the Church was one of the signatories to the 1987 Covenants described above; and
- (d) those Covenants made it clear that if the proposed church was ever changed to residences, the density that was mandated for those residences had to comply with the architectural standards in the 1987 Covenants against the owner of Lot 62, because Part D of the 1987 recording (entitled "Special Uses") has the following wording in relevant part:

*"D-1. ARCHITECTURAL. No building or structure whether residence, accessory building, fence, wall, mail box, exterior lighting or other improvement, as examples but not in restriction, shall be erected, placed or altered on .... **Lot 62, Block 1**, until the construction plans and specifications and a plan showing the location of such structure or improvements have been approved by said Architectural Control Committee shown above. Further, any residential uses on said lots shall be subject to **Part C** in its entirety."*

(emphasis added). Those architectural standards (which appear at the end of this statement) would never allow 36 residences at this critical location.

The southern half of this area (which is located to the west and south-by-southwest of Lot 62) was developed first, and SRCA believes over the next several years the neighborhoods east of the golf course experienced traffic and problems related to parking because:

- (a) SRCA believes (but does not have a copy of) the U.R.S. Traffic Study was completed in February, 1994, but references made to same in other documents (and the congested traffic and parking issues SRCA has experienced) lead SRCA to believe that the attached Section 5.11 of the Declaration of Covenants, Conditions, Restrictions and Easements recorded on February 23, 1994 at Book 6386, Page 103 of those same records (the "1994 Covenants") (prohibiting all overnight parking) was the result of that report;
- (b) SRCA believes the City required the developer to insert the attached Section 5.11, because parking bans are an unusual feature for this type of association;
- (c) there are other provisions in the 1994 Covenants that are clearly a response to governmental requests; and

(d) a homeowner in a neighboring association has advised SRCA that their association also had an overnight parking restriction which their owners voted to overturn<sup>1</sup>.

As noted above, SRCA is informed and believes that new developer worked closely with the City to solve several problems that were not addressed in the 1980s, including parking<sup>2</sup>. The problem with this plan was that the 1986 and 1987 Covenants did not restrict on-street parking, and the new Declarant could only bind 354 (out of the 447 Lots) that were part of Filing No. 1 and 320 out of the 366 Lots that were then in Filing No. 4 that had not yet been sold. However, approximately one-third of the otherwise exempt owners recorded documents that brought their Lots into the SRCA, including a 121,834 square foot Lot that was re-platted to add 15 Lots at the northwest corner of Filing No. 4. However, all the Lots shown in yellow to the west of Lot 62 are not restricted and SRCA has no enforcement authority as to those Lots.

As a result, there are properties right next to each other that are governed by a different set of standards as far as parking is concerned, which makes it difficult or impossible for SRCA to enforce the parking restrictions for Turkey Tracks Road, Mustang Pony Way and Quarter Circle Road. Likewise, SRCA has no authority over anyone who is not subject to the 1994 Covenants, and so SRCA cannot enforce parking restrictions as to members of the public.

The traffic and parking at this particular corner is especially problematic at the location where 36 Lots are about to be added, because Remington Elementary is located right across the corner of Peterson Road and Pony Tracks, and the busy public park is located directly across Pony Tracks, as shown by the two vacant areas north-by-northeast and north of Lot 62. As a result, the above-described problems will only be made worse by virtue of the serious density issue caused by the Plat, where 36 Lots will be added on a 174,240 square foot Lot located at one of the major entrances of SRCA. By comparison, the last large vacant Lot in SRCA that met reasonable standards (the above described 121,834 square foot parcel near the southwest corner of Carefree and Peterson Road) could only accommodate 15 Lots. As a result, Pony Park Residences will have more than twice as many Lots in an area only one-third larger than said Lot at the time the attached Section 5.11 was recorded.

SRCA is advised that the only solution in the Plat for Pony Park Residences was the owner's agreement to have protective covenants that prohibit residents of Pony Park Residences from parking on Pony Tracks or Flying Horse. However, having experienced the difficulty of regulating parking caused by the "checkerboard" shown on the enclosed map, despite its large size, the Association does not believe that an association made up of just 36 homes will be capable of enforcing those provisions in the same area where the much larger Association (with more available resources) has had substantial difficulty. Likewise, it will be argued that SRCA has no ability to force the new association to comply with the parking provisions, because Lot 62 is one of the "yellow" areas that were exempt from the 1994 Covenants.

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<sup>1</sup> Said owner also reported that since that repeal there has been an increase in vehicle break-ins, because opportunistic criminals can just walk along the street flipping handles without being seen. The other danger is that neighbors cannot readily tell who belongs in the neighborhood when many cars are parked along the street.

<sup>2</sup> Due to the length of another example (and the extensive nature of the task assigned to SRCA by Section 2.6 of the 1994 Covenants) that example is a separate attachment.

As a result, if the new subdivision does enforce the parking regulations as to its members, who will not have sufficient parking in the small Lots within their boundaries, those members will simply park on Turkey Tracks Road or Mustang Pony Way, or Quarter Circle Road. As a result, that will compound the existing traffic and parking problem on those streets, and SRCA will not have any remedy against those owners. As a result, the only way to address the safety concerns that were addressed by the both the 1987 and the 1994 Covenants is to enforce the density that was contemplated if the proposed Mormon Church was ever changed to residences.

As cited above, Part D-1 of the 1987 recording specially applies Part C of the 1987 recording to Lot 62, by direct reference to that specific property, and Part C of the 1987 Covenants provides in relevant part as follows:

*C-3. DWELLING SIZE. No dwelling shall be permitted on any lot in which the finished living area of the main structure, exclusive of open porches and garages shall be not less than:*

- (a) 830 square feet in a single level dwelling;*
- (b) 600 square feet on the main level of a bi-level dwelling;*
- (c) 1,100 total square feet on both levels of a two-story dwelling.*

*C-4. BUILDING LOCATION. .... In any event, no building shall be located nearer than 25 feet to the front lot line. No building shall be located nearer than 5 feet to an interior lot line, except that a 2-foot side yard shall be the minimum requirement for a garage or other permitted accessory building located 30 feet or more from th[e] minimum building setback line. No dwelling shall be located on any interior lot nearer than 19 feet to the rear lot line nor nearer than 15 feet to any side street line. For the purpose of these covenants, eaves, steps, open porches shall not be considered as part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another. A lot for the purpose of these covenants shall be considered as meaning a building site which is owned in its entirety by one owner, or owners with joint or common ownership in the entire building site.*

*C-17. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines as elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines."*



**SPRINGS RANCH AREA**  
**HOA Exempt Lots**  
 Provided by Stephen Leibel  
**Non-HOA Parcel**

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**FIGURE 2**

**Section E.9 Grading Patterns.** No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior consent and approval of the Architectural Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture.

**Section E.10 Animals.** No animals except domesticated birds or fish and other small domestic animals permanently confined indoors and except an aggregate of three domesticated dogs or cats shall be maintained in or on any Lot within the Community Area and then only if kept as pets. No animal of any kind shall be permitted which in the opinion of the Association makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Community Area for any commercial purposes. No dogs or other pets shall be chained or enclosed on a Lot outside of the Dwelling Unit, except the Architectural Committee, in its sole discretion, may approve dog runs or enclosures, as provided in Section 4.8.

**Section E.11 Parking of Vehicles.**

(a) No motor vehicles owned, leased, rented or used by Owners or Related Users shall be parked overnight on any street within the Community Area.

(b) No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, any towed trailer unit or truck shall be parked overnight on any street or within any Lot except in a completely enclosed building such as a garage, or unless screened in a manner approved by the Architectural Committee. Pickup trucks having a 3/4 ton or less manufacturer's rated capacity, with or without bed toppers, and passenger vans for the private use of the residents of a Dwelling Unit shall not be considered trucks for purposes of the foregoing restrictions.

**Section E.12 Inoperative Vehicles.** No unused, stripped down, partially wrecked or inoperative motor vehicle or part thereof shall be permitted to be parked on any street or on any Lot in such a manner as to be visible at ground level from any neighboring property or street, unless fully screened in a manner approved by the Architectural Committee. An unused vehicle shall be any vehicle which is not properly licensed or registered or has remained immobile for more than a week as determined by the Association.

**Section E.13 Vehicle Repairs.** No maintenance, servicing, repair, dismantling, sanding or repainting of any type



## **ADDITIONAL EXAMPLE OF PROVISION OF 1994 COVENANTS DESIGNED TO ADDRESS CITY CONCERN**

As noted in the appeal document, SRCA believes Section 5.11 was designed to address the City's concerns about traffic and parking. By way of another example, Section 2.6 of the 1994 Covenants made the SRCA the owner of (and thereby responsible for) the "Association Properties" in the SRCA subdivisions (Filings 1 and 4), and defined that term, in relevant part, as follows:

*As of the date that this Declaration is recorded, the Association Properties consist of the landscaped areas within the rights-of-way of the public streets known as Peterson Road and North Carefree Circle, have been dedicated to the City of Colorado Springs but will be maintained by the [SRCA] and which are shown on the Plat attached as Exhibit B. The Association Properties may include other landscaping or easements dedicated to the City of Colorado Springs in the future but maintained by the [SRCA]. Any land or other property which becomes Association Property in the future will be specifically identified in a deed conveying such property to the [SRCA], or in an amendment to this Declaration or in another instrument designating such property as Association Property, signed by Declarant and recorded in the real property records of El Paso County.*

The problem is that the Exhibit B that is referenced above (which describes the area where SRCA has authority) only applies to the area described in the first paragraph above. This became a problem when the Master Plan for the development of the larger Springs Ranch area was prepared on July 18, 1997, because (as a condition for the approval of that Master Plan), the City of Colorado Springs (the "City") required that the homeowner associations created by the developers had to be responsible for constructing (and thereafter maintaining) fencing and landscaping in the rights-of-way along some of the streets that traversed said development, in lieu of a special improvement district. The only streets specifically named therein were Tutt Boulevard, Peterson Road and North Carefree Circle.

Since it was too late to create a Master Association, the new developer, BRE/Springs Ranch LLC, placed the fencing and landscaping maintenance obligation with the SRCA by way of at least eighteen (18) known agreements with the developers of the other properties, including seventeen (17) contiguous neighborhood associations. In every one of those Agreements there is some form of the following ¶ "D", obligating the 24 entities that are required to contribute to the SRMA to:

*... share the costs of installation and maintenance of landscaping and fencing owned and/or maintained by the [SRCA] along the public roadways within or adjoining the development known as "Springs Ranch" in Colorado Springs, Colorado, including but not limited to that landscaping and fencing owned and/or maintained by the [SRCA] along Tutt Boulevard, Peterson Road and North Carefree Circle (the "Landscaping/Fencing").*

This description of SRCA's contractual duty appears in all the Agreements, where the extent of that maintenance changes depending on the description in the recorded Plats of those other associations. However, the large area (that would otherwise be part of a special improvement

district) includes Plats that describe SRCA as the “Owner” of the Tracts of land that were “conveyed” to SRCA for the purposes described in the Plats of the following associations:

- Golf Club Heights at Springs Ranch
- Heights at Springs Ranch
- High Meadows at Springs Ranch Filing No. 5

In two cases, the Tracts are “dedicated to” SRCA:

- Golf Course North at Springs Ranch
- The Knolls at Springs Ranch

The following Plats include a statement that the Tracts will be “maintained by” SRCA:

- Cascades at Springs Ranch
- High Meadows at Springs Ranch Filing No. 1
- Highlands at Springs Ranch
- North Range at Springs Ranch
- The Range at Springs Ranch

In at least eight cases there is no reference made to any maintenance obligation on the part of SRCA in any of the Plats for these subdivisions:

- Cascades at Springs Ranch II
- Falcon Ridge at Springs Ranch
- Fairways at Springs Ranch Townhomes
- Falcon Terrace at Springs Ranch
- Hillsboro at Springs Ranch
- The Island at Springs Ranch
- Stonestrow at Springs Ranch
- The Village at Springs Ranch

but all of the associations listed above are contractually required to contribute their share of the maintenance, by virtue of recorded agreements.



**City of Colorado Springs  
Planning Department  
Fee Receipt**

[Return to Fee Calculator](#)

<b>Application</b>	<b>Department</b>	<b>Amount</b>	<b>Applicant</b>	<b>AnnexDisc</b>
Appeal of Administrative Decision	Land Use Review	\$176.00		
<b>Total Fees</b>		<b>\$176.00</b>		

<b>Intake Staff:</b>	Cody Webb
<b>Date:</b>	3/6/2020
<b>Planner:</b>	Hannah Van Nimwegen
<b>Receipt Number:</b>	36622
<b>Check Number:</b>	13935
<b>Amount:</b>	\$176.00
<b>Received From:</b>	Anderson, Dude & Lebel, PC - Pony Park (AR FP 19-00023)