



THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY COUNCIL

Complete this form if you are appealing City Planning Commission or Planning Review Board's or the Historic Preservation Board's decision to City Council.

2023 MAR 20 P 1:53

APPELLANT CONTACT INFORMATION:

Appellants Name: RAVEN HILLS HOMEOWNERS ASS'N Telephone: 303-517-1217
Address: % DIVERSIFIED ASS'N MNGT 4325 N NEVADA AVE COLORADO SPRINGS
State: CO Zip Code: 80907 E-mail: andersonland99@gmail.com

PROJECT INFORMATION:

Project Name: CUDR-22-0015 CONDITIONAL USE - LARGE DAYCARE
Site Address: 50 MIKADO DRIVE E, COLORADO SPRINGS, CO 80919
Type of Application being appealed: CONDITIONAL USE
Include all file numbers associated with application: CUDR-22-0015
Project Planner's Name: PETER LANGE
Hearing Date: MARCH 8, 2023 Item Number on Agenda: 7.A.

YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

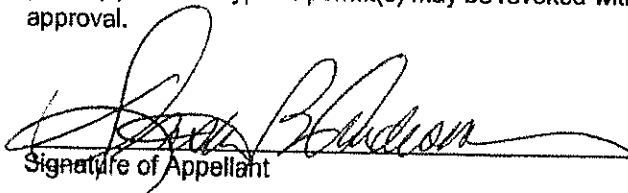
1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement
 - See page 2 for appeal statement requirements. Your appeal statement should include the criteria listed under "Option 1" or "Option 2".

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

3/20/23
Date

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

- L. **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.

- X **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.

PLEASE REFER TO ATTACHMENTS.

• EXCERPT TO City Code 7.5.704: Authorization and Findings

• RAVEN HILLS HOMEOWNERS ASSOCIATION PRESENTATION TO "CITY PLANNING HEARING" for CONDITIONAL USE @ 50 MIKADO DR E. dated MARCH 8, 2023.

It is the opinion of Raven Hills Homeowners Association that the requirements of the above referenced City Code were not met / provided by the Applicant and therefore we request the Conditional Use Permit be denied. Thank you.

CITY AUTHORIZATION:

Payment: \$ _____

Date Application Accepted: _____

Receipt No: _____

Appeal Statement: _____

Intake Staff: _____

Completed Form: _____

Assigned to: _____

7.5.704: AUTHORIZATION AND FINDINGS:  

The Planning Commission may approve and/or modify a conditional use application in whole or in part, with or without conditions, only if all three (3) of the following findings are made:

- A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.

- B. Intent Of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.

- C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

The approved conditional use and development plan shall be binding on the property until an amendment is approved changing the use of the property. Except as otherwise recommended by the Planning Commission, the development of a conditional use shall conform to the applicable regulations of the district in which it is to be located. (Ord. 80-131; Ord. 82-247; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 12-74)

Raven Hills Homeowners Association
Colorado Springs – Colorado
March 8, 2023
City Planning Hearing for Condition Use
50 Mikado Drive E

I am here to represent Raven Hills Homeowners Association – a community of 220 homes that was developed in the 1960's. In the last three months, since receiving the notice of the Application for Conditional Use, the other Board members and I have had extensive conversations with our neighbors about this issue. Nearly all are adamantly opposed to the Conditional Use. In fact, nearly 50 neighbors sent letters of opposition to Peter Lange; and only 6 letters were in support.

In spite of the presentations just given by Stacie Warren, the Applicant and Peter Lange, the City Planner, the criteria of a CONDITIONAL USE PERMIT have not been met.

As stated in the Planner's intro, Colorado Springs City Code – Part 7 paragraph 7.5.704: Conditional Use permitting requires that the Applicant provide all of the following, and the Conditional Use may be approved ONLY if all of the three conditions meet with satisfactory findings.

A. Effects to the SURROUNDING NEIGHBORHOOD

>>> Approval of the Conditional Use Requires that "The Value and Qualities of the neighborhood surrounding the Conditional Use are not substantially injured."

This can not be verified by the City Planner – because no studies were done by the Applicant. So, Raven Hills Homeowners Association has come to the following determinations.

1. Value:

Raven Hills is a community of 220 single-family homes. Again, nearly 50 have submitted strong opposition to this Conditional Use for the purpose of a business which they feel negatively affects the value of their individual homes and the neighborhood. All these responses are included in the original replies to the City Planner's notifications – they are in the Public Comments previously submitted for this hearing.

Additionally, it is the findings of real estate professionals that the actual property value of real estate is adversely affected by a daycare within covenant controlled communities, which is the purpose of the Applicant's Conditional Use. Potential buyers do not expect to find a daycare/business in a community that does not allow businesses.

2. Noise:

As we submitted in our original reply dated December 9th, this property has already been documented with noise levels exceeding 55dB in violation of Colorado Noise Statute 25-12-103 Maximum Recommended Noise Statute. Obviously, this will only worsen if the Applicant is allowed this Conditional Use which would triple the current legal capacity of 4 .

Even though Ms. Warren argues that the children will be gone before the end of the work day, many of us live and work at home throughout the week. We enjoy our time outside and have expressed concerns over having the quiet of our neighborhood interrupted. It is not realistic to believe a dozen children will not make noise that affects the immediate neighbor's serenity.

(Please see Powerpoint Slide 2 and 3)

3. Traffic:

Mikado Drive E serves Rockrimmon Elementary School – a dead-end with one way in and out. Parents' cars line up in the morning and afternoon the entire length of the street to drop off and pick up students. 50 Mikado Drive E is in the path of that congestion. This residential side street was never designed to carry this school traffic. Now a proposed commercial entity is hoping to drive additional traffic to the neighborhood at the same time as the school traffic.

It has been observed only one of the children currently who attends this daycare actually walks from another home in the neighborhood, everyone else is brought from outside Raven Hills. The applicant stated that her clientele will carpool, or double up, but all observation proves this to be absolutely false.

The City of Colorado Springs requires a Traffic Impact Analysis to be submitted with the Application as per the Development Plan Use/Variance, and per the Conditional Use Application Requirements Checklist. Where is the Applicant's Traffic Analysis? We were provided only narrative.

4. Safety:

In addition to the safety concerns associated with the school traffic in a residential area, the addition of 24 cars driving in and out of the neighborhood every week-day only compounds the issue.

Because there is no License on file for the current daycare, there has been no inspection by the Colorado Department of Early Childhood for Health and Safety – the governing agency for childcare facilities. This is concerning given that there

are upwards of eight children attending the current daycare – well above the 4 allowed by the State for an unlicensed facility.

We are also concerned with lack of an Evacuation Plan for 12 children in the event of a wildfire. We all remember how chaotic it was when the neighborhood was evacuated for the Waldo Canyon Fire with a moment's notice. Our neighborhood is heavily wooded and fire is always a concern.

5. Character:

The Conditional Use is completely out of character with the Raven Hills neighborhood. As mentioned earlier, this area was developed in the 1960's. The people who live here range from original families to new residents. We have easy proximity to Woodmen Rd, I-25, Delmonico and Centennial Blvd and retail, commercial, and business facilities. It is not necessary nor beneficial to bring Conditional Use into the neighborhood.

(Please see Powerpoint Slide 5)

B. INTENT OF ZONING CODE

Raven Hills is zoned R1 – so a commercial daycare is not consistent with residential zoning.

There are other daycare facilities within ten minutes of 50 Mikado Drive E.

In fact, all but one of the current families who use Stacie's services drive into Raven Hills from outside the neighborhood. Chances are that they pass the other facilities on their way to our neighborhood.

C. COMPREHENSIVE PLAN

The Colorado Springs Vision Plan presented by the planner doesn't even include Raven Hills because we are an established neighborhood with no need for enhancements such as Conditional Use. Raven Hills doesn't even appear within the Vision Plan presented earlier,

Please note that the Planner's reply 7.5.704 AUTHORIZATION AND FINDINGS presented earlier is a cookie-cutter reply that has been used on other Conditional Use applications. No studies were done specifically for this project.

WE HAVE CONCERNS

- Currently being INVESTIGATED for TOO MANY CHILDREN – Colorado Dept of Early Childhood only allows unlicensed daycares for 4 children – the Applicant admits 6, but as many as 8 have been observed.
- NEIGHBOR COMPLAINTS of NOISE have been filed, and a business in our community is in VIOLATION of Raven Hills Covenants
- NO LICENSE ON FILE – REQUIRED FOR MORE THAN 4 (See Slide Flowchart)
- FIRE EVACUATION PLAN would be desirable.
- HEALTH AND SAFETY INSPECTIONS by STATE are needed because the number of children requires it. None have been done.
- ADA COMPLIANCE – FEDERALLY MANDATED but no study provided, and the Applicant dismisses the necessity.
- CONDITIONAL USE is attached to the Property, not the Applicant. Therefore, the daycare discussion is secondary, making the Conditional Use Studies critical to the decision.

In Summary:

The Applicant is relying on State Law to get the City Planners to approve this project and forward it to the City Counsel, but this is really a Land Planning issue. State statute does not require the City of Colorado Springs to give Conditional Use Permits to daycares where they intrude on established neighborhoods.

We had consistently requested that the requirements of a Conditional Use be provided and evaluated BEFORE this City Planning Hearing convened, both in December and January in response to the Planner's request for input. All we were given was the Applicant's narrative and opinion. When studies aren't provided, we come to our own conclusions.

We also want the State to have time to investigate the violations on file for too many children. On several occasions, more than 4 were observed, and recently 8 were seen. Again, 4 is the maximum allowed by the Colorado Department of Early Childhood without a license. Having a License application on file is not sufficient. This is concerning, and we wonder if the Applicant's clients are aware of this violation. If the State isn't aware of this many kids, then they aren't even planning on conducting health and safety inspections at this location.

Additionally, the Notification states that the Applicant is currently licensed for a daycare for 6 children. A phone call to the Colorado Department of Early Childhood – the governing body for in home childcare – revealed that there is no license on file for this business. She is operating out of compliance. She falsely represented her status to the Planning Department in order to get the Conditional Use so she could conduct a large daycare for 12. This is concerning.

We sincerely request that this Conditional Use be denied or, at a minimum it be returned to the Planning Department for the Applicant to provide all the studies required. The Application is not ready for review because it does not meet the criteria for Conditional Use: Actual studies on value, noise, traffic, safety, neighborhood character, and ADA compliance. These results are mandated by the City's approval process.

Actually, we feel that Raven Hills addresses these criteria pretty well in the information we gave you earlier. We are of the opinion that a Conditional Use is not an enhancement to our neighborhood and that the Value and Qualities of our neighborhood would be substantially injured. This is the criteria for APPROVAL mentioned at the beginning. For this alone, the Conditional Use should be denied.

Finally, this application is incomplete and the violations on file with the State require investigation. For these reasons we request this Application either be returned to the Planner or even rejected as a result of the false statements presented by the Applicant in order to push this Conditional Use at 50 Mikado Drive E.

Either way, it is not ready to be forwarded to the City Counsel.

Thank you.

3.20.23

- We are requesting the Conditional Use be denied.
- The Small Daycare (6 full-time plus 2 part-time) would still require rezoning in order to be licensed.
- No license is required for four (4) full-time; plus she may still offer "Single Skill" classes in addition to the unlicensed children.