



Appeal of an Administrative Decision to City Planning Commission

Project Name: The Ridge
Site Address: 4375 Broadmoor Bluffs Dr, C/S, CO 80906
Tax Schedule Number: 6506410108
Type of Application being appealed: AR DP 17-00039
Include all file numbers associated with application:
Project Planner's Name: Lanna
Administrative Decision Date or Date of Notice and Order: Dec 14

SUBMITTAL REQUIREMENTS: Submit an application for an appeal to City Planning Commission to the City Land Use Review office (30 S Nevada, Suite 105, Colorado Springs, CO 80903) with the following items included:

- An appeal statement including justification of City Code 7.5.906.A.4:
Criteria For Review Of An Appeal Of An Administrative Decision: In the written notice, the appellant must substantiate the following:
Identify the explicit ordinance provisions which are in dispute.
Show that the administrative decision is incorrect because of one or more of the following:
It was against the express language of this zoning ordinance, or
It was against the express intent of this zoning ordinance, or
It is unreasonable, or Specific grounds to be submitted in week of the 25th
It is erroneous, or
It is clearly contrary to law.
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.
A copy of the NOTICE and ORDER from the issuing agency (if applicable).
For an appeal of a notice and order, you are stating that one or both of the following are true:
You are not in violation of City Code and believe the official is in error; and
The abatement period is unreasonable and should be lengthened.
A check for \$176 payable to the City of Colorado Springs.

CONTACT INFORMATION:

Appellant's Name: Broadmoor Bluffs Neighborhood Assoc Telephone (719) 291-5332
Address: 4729 Opus Dr City C/S
State: CO Zip Code: 80906 e-mail: martin.dan1992@gmail.com

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 [Handwritten Signature] Date 12/21/2017

\*\* If you would like additional assistance with this application or would like to speak with the neighborhood outreach specialist, contact Katie Sunderlin at sunderka@springsgov.com (719) 726-1118.



# Broadmoor Bluffs Neighborhood Association

Colorado Springs, Colorado 80906

January 2, 2018

Land Use Review Division  
ATTN: **Hannah E. Van Nimwegen**  
Planner II, South Team  
City of Colorado Springs  
30 South Nevada Avenue, Suite 105  
Colorado Springs, CO 80901

RECEIVED  
JAN 02 2018  
LAND USE REVIEW

~~RECEIVED  
JAN 01 2018  
LAND USE REVIEW~~

RE: Appeal of an Administrative Decision to City Planning Commission.  
The Ridge-Multi Family Housing Project  
AR DP 17-00039 and AR FP 17-00040

In accordance with (IAW) CC 7.5.906.A.4, the Planning and Community Development Department Appeal and Administrative Decision to City Planning Commission criteria, the Broadmoor Bluffs Neighborhood Association (BBNA) respectfully submits the following declarations and justifications for appeal.

**1. Against the express language of the Hillside Overlay and City Code, LURD carved out of the Hillside Overlay Zone in error and without authorization.**

a. Violates **City Code 7.5.503** by effectively removing this land from the Hillside Overlay Zone by administrative action without proper authority.

b. Violates **City Code 7.3.504.B.3a** – which states if a property owner is requesting an exemption from **all** of the requirements of the hillside area overlay it will be **necessary to rezone the property ...**

c. Violates **City Code 14.7.102** by not ensuring compliance with the **Hillside Ordinance and the Hillside Development Design Manual (\*\*HDDM)**, neither its intent nor its specifics.

d. Violates **City Code 7.5.502** in that the specific impacts of the proposed land use and site design on the adjacent properties, neighborhood, schools, parks, road systems, and existing and planned infrastructure were not evaluated against all the circumstances weighing upon this individual case.

e. Violates **City Code 7.3.504** by failing to conform to the specified conditions and by violating the intent and purpose of these regulations. Decision essentially carves out this lot from the Hillside Overlay and destroys all features this Hillside Overlay is intended to protect. This decision jeopardizes safety by approving inadequate vehicular access, excessive use of cut and fill, and massive retaining walls to hold back that extensive fill.

f. Violates **City Code 7.3.501, HDDM page 23, and HDDM Apdx. B, Ordinance 96-82** in that building height of 45 feet violates maximum permissible building height in Hillside Overlay Zone. View methodology calculations, as per HDDM demonstrate an appropriate maximum height limit of between 11 feet and 26 feet.



# Broadmoor Bluffs Neighborhood Association

Colorado Springs, Colorado 80906

1. Specific violations include these, among others:

- **HDDM page 5** requires City Planning to recognize community concerns related to development and its impact upon geological threats, visually significant hillsides, ridgelines, bluffs, and landforms."

- **HDDM page 22** places strict requirements on structures, including multi-family buildings explicitly, "To ensure" important hillside features are preserved and maintained from both on-site and off-site perspectives.

- **HDDM page 23** states: "Plans which make inordinate use of cuts and fills *will be denied.*" (emphasis as in the HDDM)

- **HDDM page 24** states: "Houses should be designed to fit the site rather than modifying the site to fit the house."

- **HDDM page 25** states: "Retaining walls are not acceptable when their purpose is to create flat yards."

- **HDDM page 34** states: "Mass/Height – Homes should not appear overly prominent or obtrusive as seen from the street, neighboring properties or off-site."

**Adverse Impact:**

- Above documented violations nullify the protections codified by City Council to safeguard occupants and property of proposed project as well as the surrounding community.

- Citizens denied community input subsequent to the waiving of city codes and ordinances.

**2. Against Federal Consumer Protection laws and against Colorado’s Common Interest Ownership Act, and against City Code, LURD’s administrative approval violates existing condo association owners’ consumer rights.**

a. The Las Casas condo buyers were sold their units on the basis that the development would be built out or completed in accordance with AR DP 98-329-A3(05), which was approved three times, at latest on Dec 18, 2007.

b. Violates **City Code 7.5.504** in that the approved Development Plan AR DP 98-329-A3(05) does not expire. Land has not been subdivided with a new legal description. Previous Las Casas builder has yet to file the required "Certificate of Completion" with Clerk and Recorder per Las Casas Declarations, Section 17.2.

**Adverse Impact:**

- Illegally violates City Code established to protect property rights.

- Incongruent with established procedure for certificate of completion and the creation of a new legal description for the protection of condominium owners.



# Broadmoor Bluffs Neighborhood Association

Colorado Springs, Colorado 80906

- Development plan contrary to sales documentation and closing documentation with condominium buyers at time of purchase.

### 3. Against Federal, State and City American Disabilities Act, LURD has approved a plan with discriminatory access to nearest public street, to nearest bus stops, and discriminates against the disabled.

a. Violates Federal ADA law, specifically 2010 Standards for Public Accommodations and Commercial Facilities Title III, 28 CFR 35.151, subparagraph 206.2.1 Site Arrival Points and Advisory pertaining to the Site Arrival Points Exception 2.

b. Violates City Ordinance No. 17-38 in that the development plan must illustrate the provision of ADA accessible routes in accord with the applicable ADA design standards and guidelines as published by the U.S. Department of Justice.

c. Violates HDDM Resolution 71-96 maximum dwellings limit, lot frontage strong recommendation, right-of-way width, two-way traffic lane requirement for sole access to nearest public right-of-way, and grade limits among other criteria.

d. Shopping center ownership group and condo association object to increased liability and may prohibit pedestrian use of access easement due to increased liability, given existing 18-wheeler delivery traffic.

e. Appears the development plan does not comply with CSFD Access Information Packet dated July 2016.

#### Adverse Impact:

- Illegally violates Federal Law and City Code/Ordinance established to provide equal access to disabled citizens and additionally inhibits their right to housing which complies with written safety standards.

- Unsafe ingress/egress for all pedestrians, especially school children and handicapped walking alongside tractor trailers. No safe sidewalks.

- Limited equipment access for emergency vehicles and the Colorado Springs Fire Department detracting from their ability to respond IAW established procedures.

### 4. Unreasonable decision based on geological hazards which endanger surrounding properties.

a. Intertek's Geological Hazard Report (File 106230.pdf) (§ 3.2 Geologic Hazards, 1st & 2nd bullets on pg. 4 of 18 and 3rd, 4th & 5th bullets on pg. 6 of 18) - Expansive Soils - There is HIGH swell potential at the base of the northern slope, endangering the houses at the top of that slope. There is also moderate swell potential near the proposed segmental retaining (SR) walls.

b. Intertek's Geological Hazard Report (File 106230.pdf) (§ 3.2 Geologic Hazards, 5th & 6th bullets on pg. 5 of 18) - Intertek's discussion of shallow water tables and groundwater springs neglects to



# Broadmoor Bluffs Neighborhood Association

Colorado Springs, Colorado 80906

mention Neal Ranch Creek, which runs below the narrow shopping center delivery lane that serves as this development's sole access to a public street, Broadmoor Bluffs Drive.

c. R.A. Smith's Geological Hazard Report both dated November 29, 2017 as PSI Project No. 05321287 (file 106887.pdf) page 2 of 15 and (file 106888.pdf) page 2 of 18 evaluated the January (the 1st) design. It did not reflect major design changes, such as the 4th floor on Building #1.

d. R.A. Smith's Final Drainage Report dated October 30, 2017 did not consider the CDOT requirement that:

1. "Drainage to the state highway right-of-way shall not exceed the undeveloped historic rate of flow. Any excess shall be detained on site and released at historic rates."
2. Final Drainage Report was not reviewed by CDOT permits manager for Region 2.

### Adverse Impact:

- Because of the swell, excessive cut and fill, excessive wall heights, expansive soils, and incomplete hazard identification; the risk of building the approved development plan has not been reduced to an acceptable level. Mitigation measures based on old geotechnical data and recent soil samples are not sufficient to characterize the slide potential.

- Incomplete and erroneous procedures detrimentally affect the safety of the current surrounding residents as well as future residents.

- Erroneously excludes requirements and compromises safety due to failure to coordinate with CDOT.

For all of the identified issues, the impacts are shared equally between the appellant, the community, and the future tenants of the Ridge. The burdens on the appellant are equally shared with the community and the future tenants of the Ridge, as we see no benefits accrued by the community with approval of this plan.

Daniel Martin  
Broadmoor Bluffs Neighborhood Association, Chair  
Broadmoor Downs HOA, President

Cynthia Grey  
Broadmoor Bluffs Neighborhood Association, Treasurer  
Las Casas COA, President

cc: Mulliken Weiner Berg & Jolivet, P.C.

**\*\*HDDM:** Source. Hillside Development Design Manual, 2nd Printing; often referred to as the Hillside Design manual in City Code.