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August 16, 22

RE: 2525 Concord Conditional Use Development Plan Appeal Statement

2525 Concord Multi-Family, Item 7.A.

**CPC CU 22-00059 and CPC NV 22-00061**

To whom it may concern,

Please find the following Appeal Statement and Justification regarding the Appeal of the Colorado Springs Planning Commission vote on the Conditional Use Development Plan Application on August 10, 2022.

On August 10, the City Planning Commission voted to approve the Conditional Use Development Plan with a Condition of Record that the Development Plan meet the required front setbacks along Cascade Avenue, Harrison Street and Concord Street.

In addition, the City Planning Commission also voted to deny the Non-Use Variance Request for a reduction of the Front Setback of the three streets from 20-feet to 10-feet.

We are appealing both of the decisions per Section 7.5.906 regarding Part 8 (non-use variance) of this article and Section 7.5.502 (Development Plan) as the decision is against the intention of the existing zoning ordinance and unreasonable considering the precedence of existing homes and structures in the area that have front setbacks that are ten feet or less; and the sight visibility requirements were met and recommended for approval for City Engineering Staff.

### **Justification**

We appreciate the City Staff's recommendation of approval, as this item went through the standard City Process, including multiple reviews and approval by City Traffic Engineering and the City Engineering Departments. We also appreciate the approval of the Conditional Use Application for Multi-Family in the OR Zone District by City Planning Commission. We are grateful that the City Planning Commission understands the need for additional dwelling units, in particular market-rate and attainable residential units to counter the City's lack of affordable housing.

The effect of the seemingly harmless decision by Planning Commission to add the Condition of Record of meeting front setbacks threatens both the development feasibility by reducing the number of units possible on the site and therefore increases the rates at which the dwelling units would need to be rented for the development to be constructed. It has been a long-term goal of our client, DHN Development, to provide the necessary multi-family units at rates that are market rate or below and to keep the overall rental rates as low as possible. Mosaica and Kaleidos are existing developments by DHN where the goal of the development is to achieve attainable housing.

As a part of the discussion among the Planning Commissioners, we had erroneously stated that we could provide the same number of dwelling units if the setbacks were to be met without the non-use variance. Upon further discussion with our Architect, HB&A, the buildings would be too close to each other and would no longer meet the requirements of fire ratings and openings. Therefore, a reduction of units would be necessary.

We believe the request for the 10 set-back is not unreasonable as many homes in the Roswell neighborhood have a 10-foot set back or less. A visual presentation regarding what a 10-ft set back looks like will be provided to City Council.

**APPEAL STATEMENT**



In addition, at Planning Commission, concern was voiced regarding the traffic visibility at the intersection of West Harrison Street and Cascade Avenue. However with the proposed 10-foot setback the buildings are not in the visibility triangle. In addition, the Development Plan was reviewed by City Traffic Engineering and the City Engineering Departments and found to be in compliance with City Code.

The requirements of the OR Zone Classification utilize the R5 development criteria for a Conditional Use of Multi-Family in an OR Zone. The R5 Zone classification requires front setbacks of 20-feet, of which for this particular project, is required for three of the sites four boundaries.

As will be presented in front of City Council, as a part of the ReTool Zoning process, the OR Zone Classification will become obsolete and considered as MX-N (or Mixed Use – Neighborhood) Zone Classification. The MX-N Zone District includes the following Front Setback Criteria:

Front Setback Minimum: 5-Feet  
Front Setback Maximum: 20-Feet

The Development Plan, as proposed, meets the requirements of the future ReTool Zoning Ordinance in the MX-N Zone District.

Thank you for your consideration.

Sincerely,

**John W. Olson** RLA | LEED-AP | CNU-A  
Urbanist | Landscape Architect  
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# 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 to City Council.

### APPELLANT CONTACT INFORMATION:

Appellants Name: \_DHN Development ,LLC\_  
Telephone: \_719-243-0846\_ Address: \_421 South Tejon Street, Ste 115\_  
City \_Colorado Springs\_ State: \_CO\_ Zip Code: \_80903\_ E-mail: \_darsey@dhndevelopment.com\_

### PROJECT INFORMATION:

Project Name: \_Concord\_  
Site Address: \_2525 Concord Street\_  
Type of Application being appealed: \_\_\_ Conditional Use Development Plan and Non-Use Variance \_\_\_  
Include all file numbers associated with application: \_CPC CU 22 00059 & CPC NV 22 00061\_  
Project Planner's Name: \_Tamara Baxter\_  
Hearing Date: \_August 10 2022\_ Item Number on Agenda: \_Item 7A\_

CITY CLERK'S OFFICE  
2022 AUG 16 P 3:16

### 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

8/16/2022  
\_\_\_\_\_  
Date

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