

# Use Variance Application

Address: 5929 Delmonico Drive, Colorado Springs CO, 80919

Parcel # 6318304023

Legal Description: LOT 1 NORTH POINTE CENTER FIL NO 6

Applicant: Catology LLC

Contact: Shannan Longley, 925-324-6737, [Shannan@kittycatology.com](mailto:Shannan@kittycatology.com)

## **Project Statement**

Catology LLC is under contract to purchase 5929 Delmonico Drive from Nor'wood Development Group to utilize the building as an indoor only cat boarding and grooming facility. Prior to June 5th 2023, this building was zoned PBC, where an Indoor Kennel would have been a Conditional Use. The UDC no longer distinguishes between indoor-only and indoor/outdoor kennels so the use would now fall under "Animal Care Facility" which is not a permitted use in Mx-M formerly PBC). The business is for cats only, and there is no outdoor function to it, indoor only. Currently Catology is located in a Mixed Use Shopping Center at 4703 Centennial Blvd. At the time that Catology moved into its current location, the center was also zoned PBC, and the use was approved as a Conditional Use in the center.

## **Project Justifications**

**Justification (Review Criteria 1):** There are exceptional circumstances applicable to the intended use that do not apply generally to the class of uses currently acceptable in the zone. Long term cat-exclusive luxury boarding at Catology does not align with the traditional definition of a "kennel." Central to Catology's brand is the express exclusion of dog clients. As such, while Catology is technically regarded as a kennel, daily operations do not present (1) noise/peaceful enjoyment concerns for neighbors, (2) environmental impact concerns stemming from hosing animal waste down drains, or (3) traffic congestion during the peak drop off and pick up hours associated with doggy daycare.

**Justification (Review Criteria 2):** Approval would represent the preservation of a 2016 property right issued by the City of Colorado Springs for Catology to operate in the PBC / Mx-M zone. Catology (originally named Catagonia Cat Hotel) has been operating without complaint from neighboring businesses since 2016 in a formerly PBC zoned Centennial Commons shopping center. Neighboring businesses at that location include a dance studio, a kid's gym, a bike shop, a medical laboratory and even several restaurants. It is unknown whether the omission of "indoor only kennel" from Mx-M under the new UDC was intentional or an oversight. Catology LLC is a well-known and respected business in Colorado Springs, with hundreds of repeat

clients. The proposed use in the building will help stabilize the existing center with a compatible use and a very stable business that will prove to be a benefit to the surrounding businesses.

**Justification (Review Criteria 3):** Approval will not be detrimental to public welfare, nor will it be injurious to the property or improvements of other property owners. The proposed Indoor Cat Kennel has proven to be successful in multi-tenant shopping centers that are zone Mx-M there is no exterior component to the business that would be a nuisance neighbors.

**Justification (Review Criteria 4):** The hardship is the result of changes to the UDC, and not the result of the applicant’s own actions.

**Justification (Review Criteria 5):** Application of the UDC as currently written would effectively prohibit the use of the property in its entirety by Catology LLC. If not approved, Catology will be forced to terminate the sale of the property and it will remain vacant as it has been for the last 6 years.

**Justification (Review Criteria 6):** The use variance is not being requested primarily to avoid the time and expense of complying with UDC standards. The use variance is being requested because “Indoor Only Kennel” is a use that was omitted from the list proposed of uses under the UDC and therefore there is no longer a compatible use defined under the UDC. Kennels with outdoor uses should be more restrictive in the zoning code than Indoor Cat Kennels, which have been previously permitted in MX or PBC zones. The new code definitions do not differentiate between Indoor and Outdoor Kennels, which potentially was an oversight in the re-writing of the new UDC, which is why a variance is being requested.

**Review Criteria**

**Use Variance Review Criteria:**

The City Council may approve the application or approve it with conditions if Council finds that the following criteria have been met;

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the Use Variance would result in undue property loss and not solely a mere inconvenience or financial disadvantage;
2. That the Use Variance is necessary for the preservation and enjoyment of a property right of the and if not approved, the property or structure cannot yield any beneficial use;
3. That the Use Variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property;
4. That the hardship is not the result of the applicant's own actions;
5. That because of these conditions, the application of the UDC prohibition on the requested use on the subject property would effectively prohibit or unreasonably restrict the use of the property; and
6. That the Use Variance is not being requested primarily to avoid the time or expense of complying with UDC standards generally applicable to similar properties and development.