

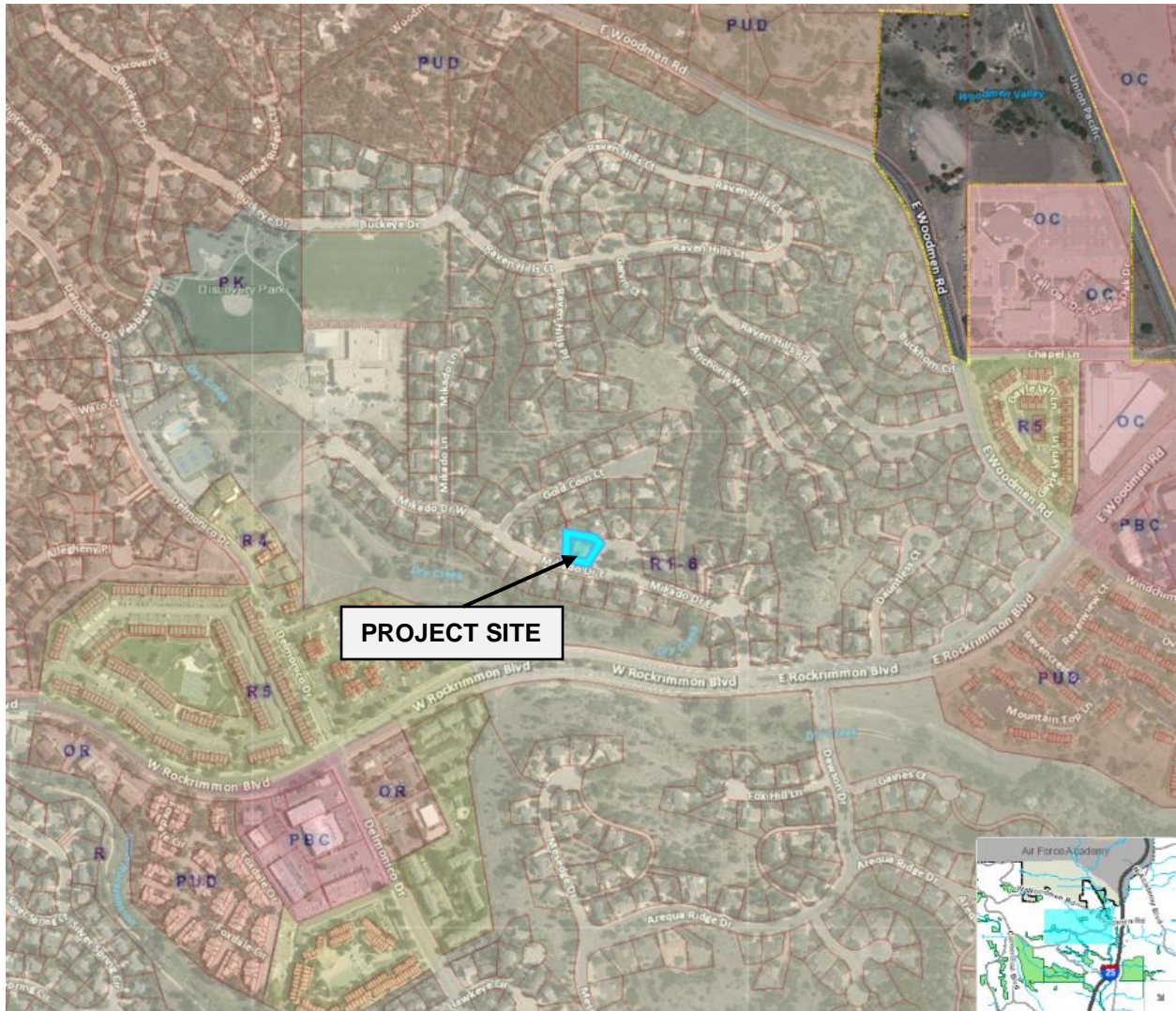
**CITY PLANNING COMMISSION AGENDA**  
**March 8, 2023**

**STAFF: Peter Lange**

**FILE NO:**  
**CUDP-22-0015 – QUASI-JUDICIAL**

**PROJECT:** 50 East Mikado Drive Large Home Daycare

**OWNERS/APPLICANTS:** Stacie Warren



## **PROJECT SUMMARY:**

1. Project Description: This project application is for approval of a conditional use development plan for the property located at 50 East Mikado Drive. The plan will allow for the establishment of a large daycare home with a maximum of twelve (12) children in a Single-Family Residential (R1-6000) with Hillside Overlay (HS) zone district. **(see “Conditional Use Development Plan” attachment)**
2. Applicant’s Project Statement: **(see “Project Statement” attachment)**
3. Planning and Development Team’s Recommendation: City Planning staff recommends approval of the application.

## **BACKGROUND:**

1. Site Address: The project site is addressed at 50 East Mikado Drive.
2. Existing Zoning/Land Use: The subject property is zoned R1-6000/HS (Single-Family Residential with Hillside Overlay) and is residentially developed.
3. Surrounding Zoning/Land Use:  
North: R1-6000/HS (Single-Family Residential with Hillside Overlay), and is residentially developed.  
South: R1-6000/HS (Single-Family Residential with Hillside Overlay), and is residentially developed.  
East: R1-6000/HS (Single-Family Residential with Hillside Overlay), and is residentially developed.  
West: R1-6000/HS (Single-Family Residential with Hillside Overlay), and is residentially developed.
4. PlanCOS Vision: According to the PlanCOS Vision Map **(see “PlanCOS Vision Map” attachment)**, the project site is identified as an Established Suburban Neighborhood.
5. Annexation: The project site was annexed into the City under Golden Cycle Addition #1 (June 24, 2003; ordinance unknown).
6. Master Plan/Designated Master Plan Land Use: The project site is located within the Rockrimmon Master Plan, which is an implemented master plan.
7. Subdivision: The project site is Lot 174 Rockrimmon Subdivision, Raven Hills Filing No. 3.
8. Zoning Enforcement Action: None
9. Physical Characteristics: The subject property is a residentially development corner lot within an established single-family residential neighborhood and access to the site is along Mikado Drive.

## **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process consisted of providing notice to adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 202 property owners on two occasions; during the internal review stage and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above. Staff received several comments in opposition to the proposed project citing concerns about traffic, parking, and that the project does not comply with the HOA covenants **(see “Public Comments” attachment)**. The applicant provided a written response to the received public comments **(see “Comment Response” attachment)**.

Staff input is outlined in the following sections of this report. Staff sent the project to internal and external review agencies for review and comments per standard distribution. The review agencies either had no comment upon initial review or the provided comments have been addressed through plan revisions.

## **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

1. Review Criteria / Design & Development Issues:

Background Information:

- a. License Status: The Applicant currently cares for six full-time children and one part-time child and operates as a small home daycare with a valid state license (SL # 1757045). The current small home daycare has been operating since July, 2021 with no known violations. State Legislation: Bill 22-213 introduced in State Senate on April 19<sup>th</sup>, 2022 proposes allocating at least 95 million dollars toward child care facilities throughout the state of Colorado mentioning that in order “to assist the state's workforce in returning to work and maintaining employment without facing the difficult choice between working and accessing quality child care, it is critical that the state allocate and quickly distribute funding to existing and new child care providers throughout the state and that such actions constitute critical government services” (SB22-213; State of Colorado).
- b. CCIOA Determination: Staff is aware of the Colorado Common Interest Ownership Act (CCIOA), which coincides with the requirements outlined in Senate Bill 20-126 for the permitting of home daycare facilities and enforcing HOA CC&Rs. It was identified by a community member that the application conflicts with their HOA covenant requirements, specifically Senate Bill 20-126 which amended the Colorado Common Interest Ownership Act (CCIOA) to include protections for licensed operators of family childcare homes. The community member identified that the Raven Hills HOA is exempted from the constraints of this legislation because the Association Assessments are below the minimum annual requirements and the HOA was formed prior to July 1, 1992 (CCIOA’s stipulations). In conclusion they are citing that the applicant is relying on the CCIOA legislation to push the CUDP application. Staff is currently researching the applicability of the CCIOA requirements and whether it would apply to the permitting of home daycare facilities. Staff will provide clarifying information at the time of the Planning Commission public hearing.
- c. Conditional Use Development Plan:  
The Applicant proposes a large home daycare for a maximum of 12 children. The property is 12,000 square feet in size and located off of East Mikado Drive. The proposed daycare will operate Monday through Friday from 8:00 AM to 3:30 PM. Drop-off and pick-up times for are staggered, drop-off times occurring from 8:00 AM and ending at 8:40 AM and pickup times occurring at noon for certain children and the remaining pick-up times occurring from 3:00 PM to 3:30 PM to minimize parking or circulation impacts. Per City Code Section 7.3.105(B) *Daycare Homes, Large Daycare Homes, And Daycare Centers*, certain standards apply to daycare homes, such as a limitation of “*No more than one part-time employee that does not reside in the home may work at the daycare.*” However, the applicant has stated that there will not be a part-time employee at this time and her husband will assist with the daycare operations.

The backyard of the residence has been designated as the outdoor play area for the children. According to the State of Colorado, the indoor floor space per child must be 35 square feet per child, and the outdoor play area must be 75 square feet per child. This will require 420 square feet inside of the residence and 900 square feet outside of the residence to remain in compliance with the State. As proposed, and in accordance with City Code Section 7.3.105(B)(2), the applicant has provided 754 square feet of indoor space and 2,290 square feet of the outdoor play area. The outdoor play area in the rear of the property is fully fenced with a 6-foot high wood fence. Children are not permitted in the front yard of the property. Staff finds that there is adequate space at the residence for the play space requirements.

Criteria for Granting a Conditional Use Development Plan

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

City Planning Staff finds that the request will not substantially injure the value and quality of the surrounding neighborhood, as the immediate area is developed with similar single-family residential uses. The proposed use is compatible with the surrounding residential uses and will support and benefit the surrounding area. As previously stated, the daycare has been operational for over three years with no known violations. The value and quality of the surrounding neighborhood will not be injured by the proposed request for a large home daycare.

ii. **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.**

The Project site is a single-family residence, is located adjacent to single-family residences, and the proposed use (large day care), is considered a supportive nonresidential land use by providing essential services to the neighboring residential community.

The applicant's request to develop a large daycare home use will be consistent with the above-referenced purpose section, as the additional standards set forth in City Code Section 7.3.105(B)(2)) for a large daycare home have been met. More specifically, these standards were designated to mitigate potential impacts that apply to certain uses allowed in residential zone districts (including residential PUDs); thus, ensuring the intent and purpose of the City Code to promote public health, safety, and general welfare are adhered to.

iii. **Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.**

The proposed large home daycare and conditional use development plan conform to the goals and policies of the City's Comprehensive Plan (herein referred to as "PlanCOS"). This project provides a service for the greater vicinity as there is a need for childcare in Colorado Springs and the use is compatible with the surrounding residential neighborhood. Refer to Section 3 below for additional details.

City Planning staff finds these conditions to adhere with the State of Colorado requirements for a large daycare home, as well as City Code Sections 7.3.105(B)(1) and (2).

2. Public Comment

Staff received several comments during the initial review of this project which pertained to traffic and parking concerns and that the project does not comply with the Raven Hills HOA covenants. The Applicant adequately addressed the concerns raised by the public (**see "Public Comment Response"**). Provided below are the City Planning staff's responses to the topics which were identified during the public noticing period.

- **Traffic:** Traffic impacts will be minimal as the Applicant proposes staggered drop off and pickup times and at most, a maximum of twelve cars will come to the site at any given time from Monday to Friday.
- **Noise:** The area is bordered to the north, west, south, and east by existing single-family residences and the community is concerned with an increase in noise by the proposed use. The proposed daycare operates from 8:00 AM to 3:30 PM, Monday through Friday, and does not operate during the weekends. The operating hours tend to align with hours in which residence are working and the facility closes prior to residences returning from work. In addition, the project site is located south of Rockrimmon Elementary school, which would be a significant contributor to traffic, in addition to noise in comparison with the proposed daycare facility. The applicant has operated a small daycare since July, 2021 and Planning staff is unaware of any complaints or violations.

Staff finds the proposed use to be consistent with the findings for granting a conditional use development plan, as set forth in City Code Section 7.5.704, the criteria for a large daycare home, as set forth in City Code Section 7.3.105(B)(1) and (2), and a development plan, as set forth in City Code Section 7.5.502(E).

3. Conformance with the City Comprehensive Plan:

Staff has evaluated the proposed application for conformance with PlanCOS adopted in January 2019. According to PlanCOS, the project site is identified as an Existing Suburban Neighborhood. The Thriving Economy Framework map does not have a designation called out but allowing the use of a large home daycare within the single-family residence furthers Typology 6: Critical Support recommendation to provide fundamental services and activities.

The intent of PlanCOS is to preserve and enhance existing and established neighborhoods and to evaluate land use proposals in existing stable neighborhoods. The large home day care will provide a service to the residents within this still developing portion of the City. This proposal contributes to PlanCOS Strategy VN-2.A-3, by supporting land use decisions and projects that contributes to *"meeting the needs of residents and families through various life stages..."*. Additionally, this proposal meets Strategy VN-3.C-03, which is the City's commitment to *"provide ongoing small business assistance with navigating the City's land entitlement and other permitting processes."*

City planning staff finds the project in question and its associated application to be in substantially conformance with PlanCOS and its guidance.

4. Conformance with the Area's Master Plan:

The large daycare located at 50 East Mikado Drive is within the Rockrimmon Master Plan. *The* Rockrimmon Master Plan was previously deemed "Implemented", according to City Code Section 7.5.402(B) (2) occurs when the area covered by a master plan is 85% or more built out. The neighborhoods surrounding the project are developed with residential land uses, public parks, and public schools. (see "Context Map" attachment) The Applicant's residential accessory use proposal is complementary and supportive of the current land use patterns. Through the review of the conditional use development plan application and consideration of the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(B), the overall area impacts of the project were analyzed, and Staff finds the large home daycare project to be complimentary and supportive of the immediate area.

**STAFF RECOMMENDATION:**

**CUDP-22-0015 – CONDITIONAL USE DEVELOPMENT PLAN**

Approve the Conditional Use Development Plan for the 50 East Mikado Drive large home daycare project in the R1-6000/HS (Single-Family Residential with Hillside Overlay), based on the finding that the request meets the findings for granting a Conditional Use as set forth in City Code Section 7.5.704 and the review criteria for granting a Development Plan, as set forth in City Code Section 7.5.502(E).

