

50 Mikado Drive East Daycare Appeal

CUDP-22-0015

City Council

April 11, 2023

Peter Lange
Planner II



Application Appeal



CUDP-22-0015

A conditional use development plan for a licensed home daycare with a maximum of twelve (12) children. The site is zoned R1-6000 HS (Single-Family Residential with Hillside Overlay), is 12,000 square feet, and is located at 50 Mikado Drive East. (Quasi-Judicial)

General Information



- Zoned R1-6000 HS (Single-Family Residential Hillside Overlay)
- Use is permitted conditionally
- Single-family residence located at 50 East Mikado Drive, Lot 174 Rockrimmon Subdivision, Raven Hills Filing No. 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.
- Currently operating under a Home Day Care Permit beginning in August 23, 2022 as a small daycare (6 full-time and one part time).
 - State License: HMDC-22-0002

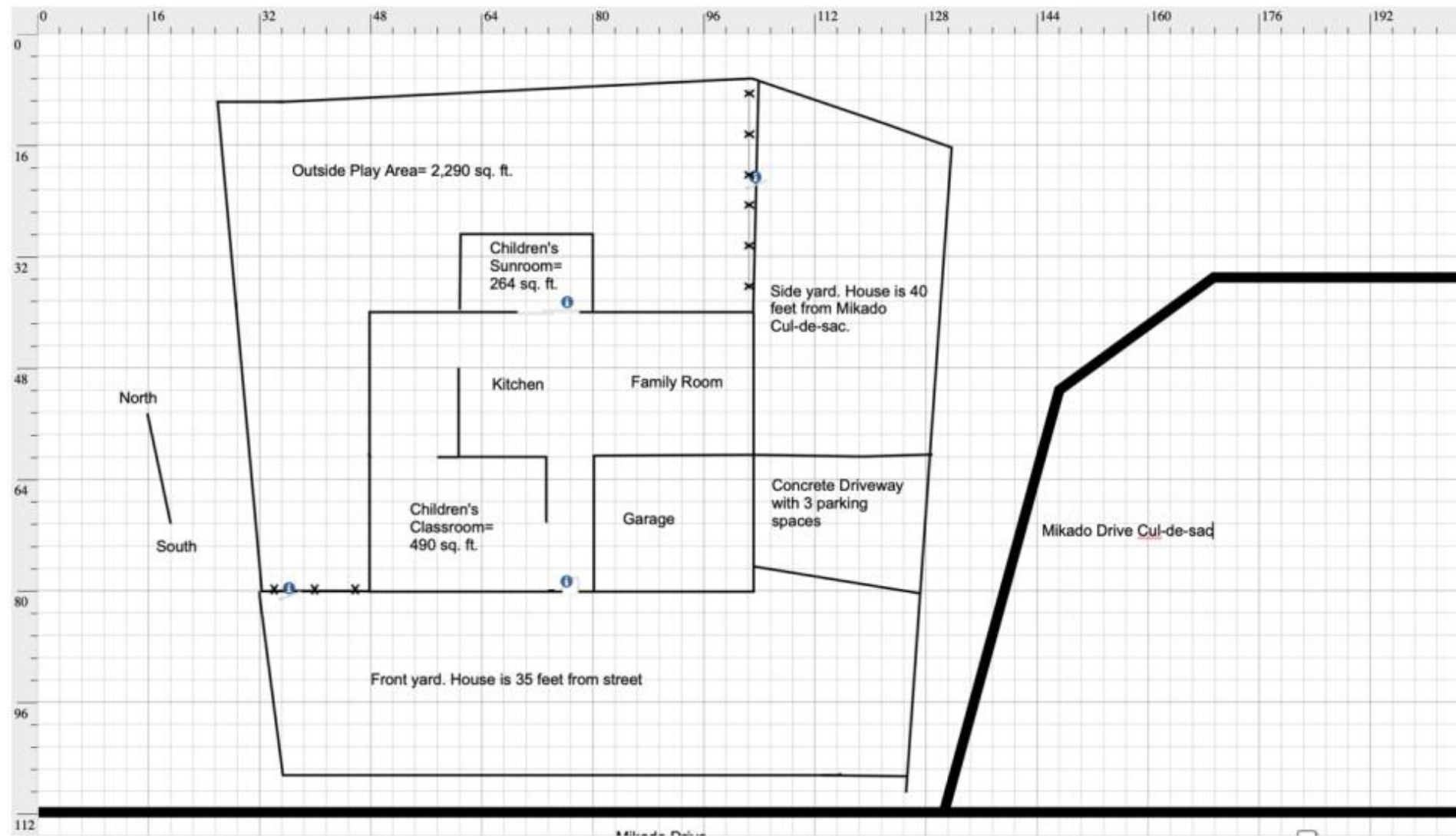
CONTEXT MAP



CONTEXT MAP



Project Description



Standard Public Notice



- 202 property owners and on-site postage
- Two occasions: internal review and this Planning Commission hearing and three comments were received which expressed concerns for the project.
- The following concerns were received:
 - Traffic
 - Noise
 - CC&R Compliance
 - Public Noticing

Planning Commission Action



- Planning Commission hearing on March 8, 2023
- Presentation was made by City Staff, applicant, and appellant
- Two additional call-in public comment (1 in favor, 1 opposed)
- Commission approved the request by a vote of 5-1-2-1 (In Favor, Against, Absent, Recused)

Appeal of PC Approval



- Appeal of Commission decision was submitted by Ms. Kristina Anderson, an adjacent neighbor, representing the Raven Hills HOA
- **Private or Civil Matters**
 - Traffic
 - Noise
 - Devaluing of property
 - Day Care not allowed per covenants
 - Per City Code Section 7.2.103, covenants are civil not enforced by the City of Colorado Springs

Appellants Statement



➤ Concerns related to City Code

➤ **Inconsistent with local zoning and violation of zoning regulations**

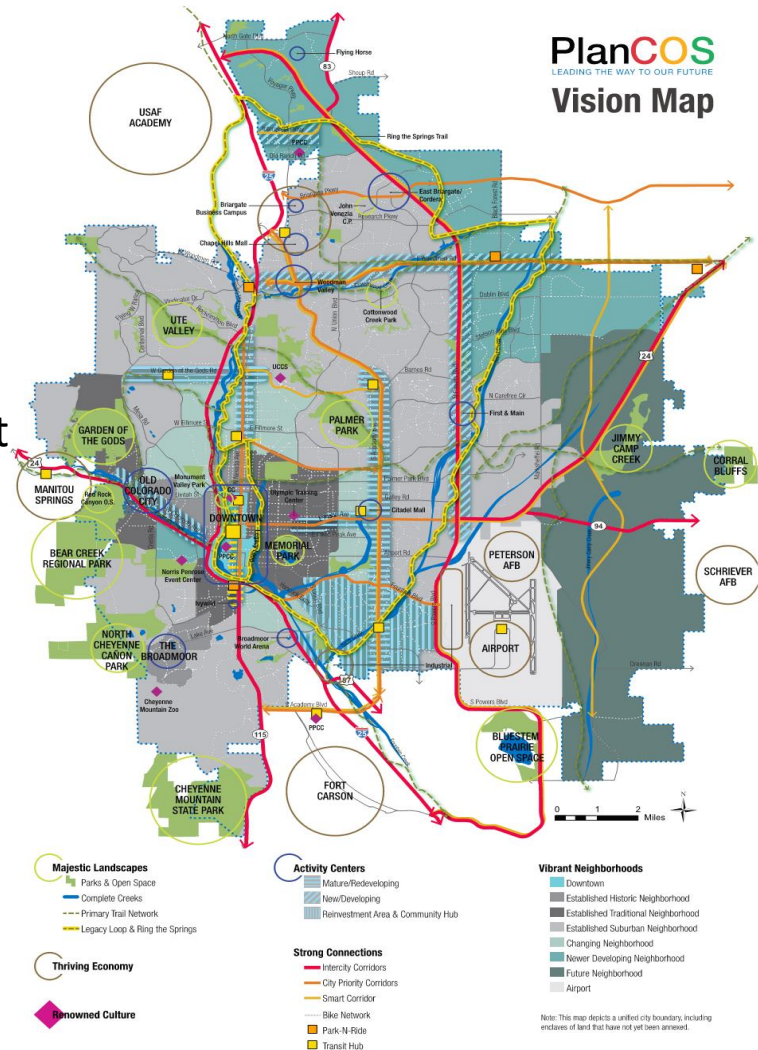
- Daycare homes are permitted residential zone districts
- Large daycare homes through conditional use approval are permitted as long as meet the applicable development standards
 - Additional standards in City Code for large daycare home ensure the intent and purpose of City Code to promote public health, safety and general welfare.
- The Applicant has been operating a small daycare home at this location since 2022 with required City permit and is in the process of obtaining a State License to operate a large daycare.
- UDC: The UDC was recently adopted and will go into effect on June 5, 2023. The requested use, a child day care, large, accessory, will be permitted by right once the UDC goes into effect.

PlanCOS Conformance



Chapter 2: Vibrant Neighborhoods

- **Strategy VN-2A-3:** Support land use decisions and projects that provide a variety of housing types and sizes, serving a range of demographic sectors, and meeting the needs of residents and families through various life stages and income levels.
- **Strategy VN-3.C-3:** Provide ongoing small business assistance with navigating the City's land entitlement and other permitting process.



PlanCOS Conformance

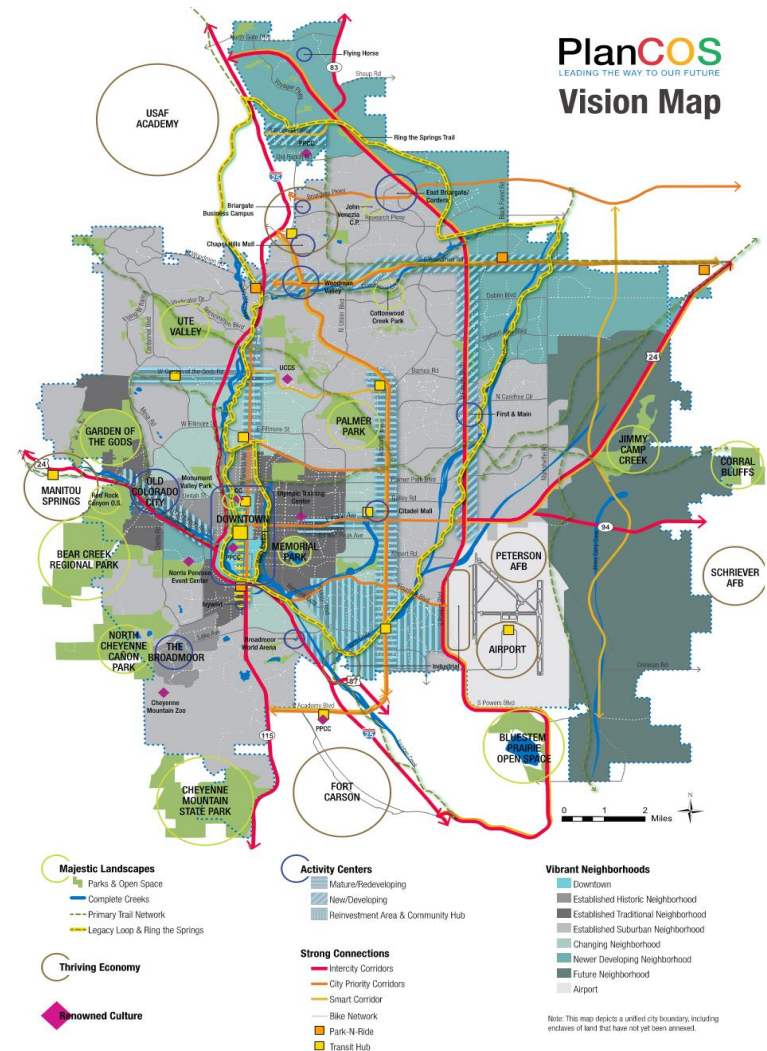


Chapter 4: Thriving Economy

- The Thriving Economy Framework map does not have a designation called out, however allowing the use of a large home daycare at this location furthers Typology 6 (Critical Support) recommending providing fundamental services and activities.

Determination:

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



Unified Development Code



- The City recently adopted the new Citywide Zoning Code (Unified Development Code or UDC).
- The UDC will go into effect on June 5, 2023.
- Outlined in the UDC, a “child day care, large, accessory” to a single-family residence is a permitted by right use.
- After the UDC effective date of June 5, 2023, all permitting and inspections will administered through the State of Colorado Childcare services.
- If the CUDP permit is denied by the City, then the applicant will have the opportunity to reapply as of June 5, 2023. directly to the State.
- If all State criteria are met, the large daycare license will be approved by the State and a CUDP permit will not be required once the UDC goes into effect.

Recommendation



CUDP-22-0015– CONDITIONAL USE DEVELOPMENT PLAN

Deny the appeal, thereby upholding Planning Commission's action to approve the large daycare Conditional Use Development Plan for the property located at 50 Mikado Drive East, based on the findings that the applicant complies with the review criteria set forth in City Code Sections 7.5.704 (Conditional Use) and 7.5.502.E (Development Plan), and that the appeal criteria found in City Code Section 7.5.906.B are not met.